

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02982-LTB

THOMAS STOCKS,

Plaintiff,

v.

LT. NATHAN FOGG,  
SGT. MICHAEL MORRIS,  
DEPUTY P. BOLTE,  
MICHAEL BALDING,  
DEPUTY LITWEITER,  
JOHN WEILER,  
DEPUTY ANTILLA, and  
SGT. CHRISTOPHER GABRIEL,

Defendants.

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ORDER DENYING MOTION TO RECONSIDER

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Now before the Court is the Motion for Appeal that Plaintiff, Thomas Stocks, filed *pro se* on February 14, 2014. Mr. Stocks seeks reconsideration of the Court's Order of Dismissal entered on January 16, 2014. The Court must construe the Motion liberally because Mr. Stocks is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons stated below, the Court will construe the Motion as a Motion to Reconsider filed pursuant to Fed. R. Civ. P. 60(b) and deny the Motion.

A litigant subject to an adverse judgment who seeks reconsideration by the district court of that adverse judgment may "file either a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b)." *Van Skiver v. United States*, 952 F.2d 1241, 1243

(10th Cir. 1991). A motion to alter or amend the judgment must be filed within twenty-eight days after the judgment is entered. See Fed. R. Civ. P. 59(e). Because the Motion to Reconsider was filed more than twenty-eight days after the dismissal of this case, the Court will consider the Motion pursuant to Rule 60(b). See *Van Skiver*, 952 F.2d at 1243.

Relief under Rule 60(b) is appropriate only in extraordinary circumstances. See *Massengale v. Oklahoma Bd. of Examiners in Optometry*, 30 F.3d 1325, 1330 (10th Cir. 1994). Upon consideration of the Motion and the entire file, the Court finds that Mr. Stocks fails to demonstrate some reason why the Court should reconsider and vacate the January 16, 2014 Order of Dismissal. Accordingly, it is

ORDERED that Mr. Stock's Motion for Appeal, ECF No. 13, filed on February 14, 2014, is construed as a Motion to Reconsider filed pursuant to Fed. R. Civ. P. 60(b) and is denied.

DATED at Denver, Colorado, this 19<sup>th</sup> day of February, 2014.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court