

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PAUL E. WEBER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 18-637-LPS
	:	
AMY ARNOTT QUINLAN, et al.,	:	
	:	
Defendants.	:	

MEMORANDUM

1. **Introduction.** Plaintiff Paul E. Weber (“Plaintiff”), an inmate at the James T. Vaughn Correctional Institution in Smyrna, Delaware, filed this action pursuant to 42 U.S.C. § 1983. He appears *pro se* and has paid the filing fee. On June 12, 2018, the Court screened the Complaint pursuant to 28 U.S.C. § 1915A(a) and dismissed it as legally frivolous. (D.I. 23, 24) On July 2, 2018, Plaintiff filed a motion for reconsideration. (D.I. 27) He has also filed a motion for extension of time to file a motion for reconsideration,¹ a motion for extension of time to file notice of appeal, a motion for oral argument, and a motion for leave to amend. (D.I. 25, 26, 28, 31)

2. **Motion for Reconsideration.** The purpose of a motion for reconsideration is to “correct manifest errors of law or fact or to present newly discovered evidence.” *Max’s Seafood Café ex rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999). “A proper Rule 59(e) motion . . . must rely on one of three grounds: (1) an intervening change in controlling law; (2) the availability of new evidence; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice.” *Lazaridis v. Wehmer*, 591 F.3d 666, 669 (3d Cir. 2010) (citing *N. River Ins. Co. v. CIGNA Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995)).

¹ Because the motion for reconsideration was filed within the required 28-day time frame (*see* Fed. R. Civ. P. 59(e)), the motion for enlargement of time for its filing is moot.

3. Plaintiff argues the Court has mischaracterized and misconstrued his claim, and his claim is not time-barred because it alleges a continuing constitutional violation. (D.I. 27) Plaintiff's motion fails on the merits because he has not set forth any intervening changes in the controlling law; new evidence; or clear errors of law or fact made by the Court in its screening order that dismissed the Complaint as time-barred. *See Max's Seafood Café*, 176 F.3d at 677. For these reasons, the motion for reconsideration will be denied. (D.I. 27) Plaintiff's motion for oral argument and motion for leave to amend the complaint (D.I. 28, 31) will be denied as moot.

4. **Motion to Extend Time to Appeal.** On June 29, 2018, Plaintiff filed a motion for an extension of time to file a notice of appeal. (D.I. 26) The motion seeks a thirty day extension. The Court entered an order on June 12, 2018 dismissing this case as legally frivolous. (D.I. 24) Subject to certain exceptions, a notice of appeal must be filed within thirty days from the disputed order's entry date. *See* Fed. R. App. P. 4(a)(1)(A). However, a motion for reconsideration under Federal Rule of Civil Procedure 59 will toll the time for filing a notice of appeal if it is filed within twenty-eight days of entry of the order. *See* Fed. R. App. P. 4(a)(4)(A)(iv). Here, Plaintiff's motion for reconsideration of the June 12, 2018 Order was filed on July 2, 2018, within the twenty-eight day time period. (*See* D.I. 26) Therefore, the filing of the motion for reconsideration tolled the time to appeal. Plaintiff's thirty days to file a notice of appeal will begin to run from entry of the order disposing of the motion for reconsideration (D.I. 27) that is discussed above in this memorandum. *See* Fed. R. App. P. 4(a)(1)(A). Plaintiff's motion for an extension of time to appeal is unnecessary, and, therefore, the motion will be denied. (D.I. 26)

5. **Conclusion.** The Court will: (1) deny as moot Plaintiff's motion for extension of time to file a motion for reconsideration (D.I. 25); (2) deny as unnecessary Plaintiff's motion for thirty day extension of time to file a notice of appeal (D.I. 26); (3) deny Plaintiff's motion for reconsideration (D.I. 27); (4) deny as moot Plaintiff's motion for oral argument (D.I. 28); and

(5) deny as moot Plaintiff's motion for leave to amend complaint (D.I. 31).

An appropriate order will be entered.

July 11th, 2018
Wilmington, Delaware

Handwritten signature of Leonard P. Stark in black ink, written over a horizontal line.

HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT JUDGE