

United States District Court
for the
Southern District of Florida

Tommie Lee Milton II EL, Plaintiff,)	
)	
v.)	Civil Action No. 16-62590-Civ-Scola
)	
Sidney Corrie, Jr., and others,)	
Defendants.)	

Order on Plaintiff's Motion for Reconsideration

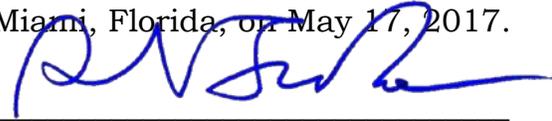
This matter is before the Court on the Plaintiff's motion for reconsideration of the Court's Order Granting Defendants' Motions to Dismiss. (Mot. to Reconsider, ECF No. 103). The decision to grant or deny a motion for reconsideration is committed to the district court's sound discretion. See *Chapman v. AI Transport*, 229 F.3d 1012, 1023-24 (11th Cir. 2000) (reviewing reconsideration decision for abuse of discretion). Reconsideration is appropriate only in very limited circumstances, such as where "the Court has patently misunderstood a party, where there is an intervening change in controlling law or the facts of a case, or where there is manifest injustice." See *Vila v. Padron*, No. 04-20520, 2005 WL 6104075, at *1 (S.D. Fla. Mar. 31, 2005) (Altonaga, J.). "Such problems rarely arise and the motion to reconsider should be equally rare." See *id.* (citation omitted). In order to obtain reconsideration, "the party must do more than simply restate its previous arguments, and any arguments the party failed to raise in the earlier motion will be deemed waived." See *id.*

The Plaintiff's motion merely restates his previous arguments and does not demonstrate that the Court misunderstood him, does not allege an intervening change in controlling law or the facts of the case, and does not demonstrate that there was a manifest injustice. Therefore, the Plaintiff has not established that grounds exist for the Court to reconsider its decision to dismiss this case. However, the Court dismissed the Complaint with prejudice for lack of subject matter jurisdiction. (Order at 6, ECF No. 101). The Plaintiff is correct that the Court should have dismissed the Complaint without prejudice. *Stalley ex rel. U.S. v. Orlando Reg'l Healthcare Sys., Inc.*, 524 F.3d 1229, 1232 (11th Cir. 2008) (citations omitted) ("A dismissal for lack of subject matter jurisdiction is not a judgment on the merits and is entered without prejudice."). Therefore, the Court will issue an Amended Order correcting this error. The Court notes, though, that the Plaintiff has not established that grounds exist

for the Court to reconsider its finding that “The factual allegations concerning the violations of the Plaintiff’s constitutional rights are so bereft of substance that any attempt at amendment would be futile.” (Order at 6, ECF No. 101.)

Accordingly, the Court **grants in part and denies in part** the Plaintiff’s motion for reconsideration (**ECF No. 103**).

Done and Ordered in chambers, at Miami, Florida, on May 17, 2017.



Robert N. Scola, Jr.
United States District Judge

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