

United States District Court
for the
Southern District of Florida

Antistenes Torres, Movant,)	
)	
v.)	Criminal Case No. 17-20623-civ-Scola
United States of America,)	
Respondent.)	

Order Denying Rule 59(e) Motion

Movant Antistenes Torres asks the Court to reconsider, under Federal Rule of Civil Procedure 59(e), its order adopting United States Magistrate Judge Patrick A. White’s report and recommendation. According to Torres, the Court has not adequately established subject-matter jurisdiction and has not properly evaluated Torres’s ineffective-assistance-of-counsel claims.

Rule 59(e) permits a motion to alter or amend a judgment. “The only grounds for granting a Rule 59 motion are newly-discovered evidence or manifest errors of law or fact. A Rule 59(e) motion cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment.” *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007) (internal quotations omitted).

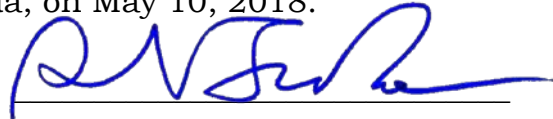
It is an improper use of the motion to reconsider to ask the Court to rethink what the Court already thought through—rightly or wrongly. The motion to reconsider would be appropriate where, for example, the Court has patently misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension. A further basis for a motion to reconsider would be a controlling or significant change in the law or facts since the submission of the issue to the Court. Such problems rarely arise and the motion to reconsider should be equally rare.

Z.K. Marine Inc. v. M/V Archigetis, 808 F. Supp. 1561, 1563 (S.D. Fla. 1992) (Hoeveler, J.) (citation omitted).

After considering Torres’s motion, the record, and the relevant legal authorities, the Court **denies** the motion (**ECF No. 20**). Torres does not present newly discovered evidence or new law but merely urges the Court to rethink its previous decision. Nor has Torres established any manifest errors of law or fact. In other words, the motion does not meet the standards of Rule 59(e). The

Court does not issue a certificate of appealability.

Done and ordered, at Miami, Florida, on May 10, 2018.

A handwritten signature in blue ink, appearing to read "R. N. Scola, Jr.", written over a horizontal line.

Robert N. Scola, Jr.

United States District Judge