HUEY v. DANFORTH et al Doc. 80

## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA VALDOSTA DIVISION

**BRUCE WAYNE HUEY,** 

Plaintiff,

٧.

Civil Action No. 7:12-CV-97 (HL)

TED PHILBIN, CECILIA LINDER, and WAYNE RIZER.

Defendants.

## **ORDER**

Before the Court are Plaintiff's Motion to Alter or Amend Judgment (Doc. 73) and his Objections to the Court's Order and Judgment (Doc. 74), listed in CM/ECF as "Motion for Reconsideration." The Court has read and considered Plaintiff's filings as well as Defendant's Response in Opposition to Plaintiff's Motion to Alter or Amend Judgment (Doc. 78). The Court has also considered Plaintiff's Response to Defendant's Opposition (Doc. 79). For the reasons stated below, Plaintiff's motions are denied.

The Court will first address Plaintiff's Motion to Alter or Amend Judgment. "The only grounds for granting a Rule 59 motion are newly-discovered evidence or manifest errors of law or fact." <u>Arthur v. King</u>, 500 F.3d 1335, 1343 (11 Cir. 2007) (internal quotation and citation omitted). Plaintiff's motion does not point to any new evidence or manifest errors, and the Court is not otherwise aware of

any, so Federal Rule of Civil Procedure 59 requires that Plaintiff's motion be

denied.

Turning next to Plaintiff's Objections to the Court's Order and Judgment,

this motion must also be denied. In light of Plaintiff's status as a pro se party, the

Court will construe Plaintiff's filing as a motion for reconsideration. See <u>Haines v.</u>

Kerner, 404 U.S. 519, 520 (1972). Plaintiff's chief grounds for the Court to

reconsider its ruling (Doc. 70) adopting the Magistrate Judge's recommendation

is that he never gave his consent for the Court's referral to the Magistrate Judge.

However, 28 U.S.C. § 636(b)(1)(B) authorizes a district court to refer to a

magistrate judge a § 1983 claim brought by a prisoner, such as Plaintiff's claim,

even without the parties' consent. McCarthy v. Bronson, 500 U.S. 136, 138-39,

111 S.Ct. 1737, 114 L.Ed.2d 194 (1991). Thus, Plaintiff's motion for

reconsideration is without merit and due to be dismissed.

**SO ORDERED**, this the 10<sup>th</sup> day of September, 2013.

s/ Hugh Lawson

**HUGH LAWSON, SENIOR JUDGE** 

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