

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MONTE S. GEARHART,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Case No. 10-cv-483-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on Petitioner's motion for reconsideration pursuant to Federal Rule of Civil Procedure 59(e). For the following reasons, the Court denies the motion.

Under Rule 59(e), a court has the opportunity to consider newly discovered material evidence or intervening changes in the controlling law or to correct its own manifest errors of law or fact to avoid unnecessary appellate procedures. *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996); see *Harrington v. City of Chicago*, 433 F.3d 542, 546 (7th Cir. 2006). It "does not provide a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party to introduce new evidence or advance arguments that could and should have been presented to the district court prior to the judgment." *Moro*, 91 F.3d at 876. Rule 59(e) relief is only available if the movant clearly establishes one of the foregoing grounds for relief. *Harrington*, 433 F.3d at 546 (citing *Romo v. Gulf Stream Coach, Inc.*, 250 F.3d 1119, 1122 n. 3 (7th Cir. 2001)).

Petitioner's motion does not suggest newly discovered material evidence, an intervening change in the law, or manifest error of law or fact. Rather, Petitioner adds to his arguments

originally made in his § 2255 motion. Accordingly, the Court **DENIES** Petitioner's motion because he has failed to clearly establish one of the Rule 59(e) grounds for relief.

**IT IS SO ORDERED.**

**DATED:** February 4, 2013

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**