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

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JAMES OWENS,		
	Plaintiff,	
vs.		
WARDEN LAMB,	, et al.,	
	Defendant.	

Case No. 17-cv-667-SMY-RJD

MEMORANDUM AND ORDER

YANDLE, District Judge:

This matter is before the Court on Plaintiff's Motion for Enlargement of Time to File a Motion for Reconsideration (Doc. 42). On March 22, 2018, the Court granted summary judgment to one defendant, Dr. John Coe. (Doc. 41). Plaintiff has filed the current motion asking for additional time to file a motion to reconsider that grant of summary judgment until May 22, 2018.

The Federal Rules of Civil Procedure do not explicitly recognize motions to reconsider. However, the Seventh Circuit has held that a motion challenging the merits of a district court order will automatically be considered as having been filed pursuant to either Rule 59(e) or Rule 60(b) of the Federal Rules of Civil Procedure. See, *e.g., Mares v. Busby*, 34 F.3d 533, 535 (7th Cir. 1994); *U.S. v. Deutsch*, 981 F.2d 299, 300 (7th Cir. 1992). Which rule applies is governed by the time of filing. "If the motion is served within [28] days of the rendition of judgment, the motion falls under Rule 59(e); if it is served after that time, it falls under Rule 60(b)." *Mares*, 34 F.3d at 535 (7th Cir. 1994).¹

¹ At the time *Mares* was decided, the Federal Rules of Civil Procedure provided for a ten-day window to file a motion under Rule 59(e). The rule was amended in 2009 to expand the filing period to 28 days.

The Court interprets Plaintiff's motion as requesting an extension to file a Rule 59(e) motion, as Rule 60(b) motions are not subject to such a stringent time limit. However, Federal Rule of Civil Procedure 6(b)(2) expressly forbids a court from extending the time to file Rule 59(e) motions. However, Plaintiff will still be able to file a motion under Rule 60(b), as long as it is submitted within a reasonable time.

Accordingly, Plaintiff's Motion (Doc. 42) is **DENIED**.

IT IS SO ORDERED.

DATED: April 24, 2018

<u>s/ Staci M. Yandle</u> STACI M. YANDLE United States District Judge