

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MARK SILIVEN et. al.,)
Plaintiffs,)
vs.) Cause No. 1:08-cv-1192-WTL-DML
INDIANA DEPARTMENT OF CHILD)
SERVICES et. al.,)
Defendants.)

ENTRY ON MOTION TO RECONSIDER

Before the Court is the Plaintiffs' Motion to Reconsider (Docket No. 40). The motion seeks reconsideration of the Court's order granting summary judgment on the Plaintiffs' federal claims and remanding the Plaintiffs' state law claims to the Wayne County Superior Court (Docket No. 37).

Rule 59(e) "authorizes relief when a moving party 'clearly establish[es] either a manifest error of law or fact' or 'present[s] newly discovered evidence.'" *Souter v. Int'l Union*, 993 F.2d 595, 599 (7th Cir. 1993) (quoting *Fed. Deposit Ins. Corp. v. Meyer*, 781 F.2d 1260, 1268 (7th Cir. 1986)). The purpose of a motion to alter or amend judgment under Rule 59(e) is to have the court reconsider matters "properly encompassed in a decision on the merits." *Osterneck v. Ernst & Whinney*, 489 U.S. 169, 174 (1988). The Court of Appeals has explained that there are only three valid grounds for a Rule 59(e) motion: (1) newly-discovered evidence; (2) an intervening change in the law; and (3) manifest error in law. *See Cosgrove v. Bartolotta*, 150 F.3d 729, 732 (7th Cir. 1998).

There was in this case no manifest error of law or fact. The Court did not misapprehend

the Plaintiff's claim, nor did it misapply the law to that claim in light of the applicable law.

Accordingly, the Plaintiffs' Motion for Reconsideration (Docket No. 40) is **DENIED**.

SO ORDERED: 06/24/2010



Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

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