UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

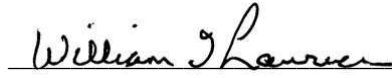SEYDOU B. GOUNOU,   )
)
    Plaintiff,   )
)
      vs.   )   **Cause No. 1:10-cv-750-WTL-DML**
)
WERNER ENTERPRISES, d/b/a   )
DRIVERS MANAGEMENT, LLC,   )
)
    Defendant.   )

ENTRY ON MOTION TO SET ASIDE JUDGMENT

On December 15, 2010, the Court entered an order adopting the recommendation of the

Magistrate Judge assigned to this case that the case be dismissed without prejudice due to the

Plaintiff's failure to appear at the September 21, 2010, initial pretrial conference, failure to

participate in the drafting of the case management plan, failure to respond to the order to show

cause issued as a result of those failures, and failure to respond to the Defendant's motion for

judgment on the pleadings. As the Court noted in that Entry, the Plaintiff also did not file an

objection to the Magistrate Judge's report and recommendation. The dismissal of the case

finally got the attention of Plaintiff's counsel, however, and he has now filed a motion asking the

Court to set aside the entry of judgment and reopen the case in which he essentially apologizes

for his failures and argues that it is unjust to punish the client for the failures of his attorney.

"However, it is well-settled that a Rule 59(e) motion is not properly utilized to advance

arguments or theories that could and should have been made before the district court rendered a

judgment," *Sigsworth v. City of Aurora, Ill.*, 487 F.3d 506, 512 (7th Cir. 2007) (citations

omitted), and the Plaintiff had ample opportunity to argue that dismissal was not appropriate

prior to the entry of judgment, either by responding to the order to show cause or objecting to the

Magistrate Judge's recommendation. Having failed to do so then, the Plaintiff may not do so

now. Accordingly, the motion to set aside the judgment is **DENIED**.

    SO ORDERED: 03/09/2011

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

Copies to all counsel of record via electronic notification