

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF INDIANA
 INDIANAPOLIS DIVISION

KOFI MODIBO AJABU,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:16-cv-02613-TWP-DKL
)	
HAMILTON COUNTY PROSECUTOR’S)	
OFFICE,)	
WAYNE STURTEVANT former Hamilton)	
County Prosecutor,)	
KEN ROBERTS Kofi Ajabu’s defense)	
attorney,)	
ROBERTS & BISHOP LAW OFFICE,)	
ESTATE OF KEVIN SCIONTI deceased,)	
Kofi Ajabu defense attorney,)	
SONIA LEERKAMP former Hamilton)	
County prosecutor,)	
BRUCE LEMMONS Commissioner, Indiana)	
Department of Corrections,)	
ERIC K. KOSELKE appeals attorney,)	
)	
Defendants.)	

**Entry Denying Motion to Set Aside the Judgment
 and Request for Leave to Amend Pleadings**

Plaintiff Kofi Modibo Ajabu filed a motion to reconsider the ruling granting the motion to dismiss. Because the motion was filed within 28 days of the date judgment was entered in this action, it is treated as a motion to amend judgment pursuant to Rule 59 of the *Federal Rules of Civil Procedure*.

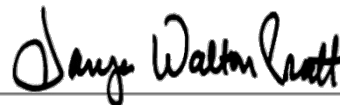
“Rule 59(e) allows a court to amend a judgment only if the petitioner can demonstrate a manifest error of law or present newly discovered evidence.” *Heyde v. Pittenger*, 633 F.3d 512, 521 (7th Cir. 2011) (internal quotation omitted); *United States v. Resnick*, 594 F.3d 562, 568 (7th

Cir. 2010). “A manifest error is not demonstrated by the disappointment of the losing party. It is the wholesale disregard, misapplication, or failure to recognize controlling precedent.” *Oto v. Metropolitan Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) (internal quotations omitted). “Relief under Rules 59(e) and 60(b) are extraordinary remedies reserved for the exceptional case....” *Foster v. DeLuca*, 545 F.3d 582, 584 (7th Cir. 2008).

Ajabu points out that the action was dismissed without prejudice and asserts now that he “has consolidated its new filing to a claim which this Court can address.” But he has identified no error in the ruling dismissing the case, which would allow him leave to amend. If he believes he has a viable claim that can form the basis of a lawsuit, Ajabu must file a new action. This matter is closed. Accordingly, the motion to set aside the judgment and for leave to amend pleadings [dkt 47] is **denied**.

IT IS SO ORDERED.

Date: 3/7/2017



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution to all electronically registered counsel of record and by U.S. mail to:

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