

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION**

ENTRY ON MOTION TO ALTER OR AMEND JUDGMENT

On December 20, 2007, the court entered final judgment affirming the the Commissioner of Social Security's final decision denying plaintiff Louquette O'Connor-Spinner's claim for disability insurance benefits. 2007 WL 4556741 (S.D. Ind. Dec. 20, 2007). Plaintiff filed a motion to alter or amend the judgment under Rule 59(e) of the Federal Rules of Civil Procedure. The motion argues that the court erred in its legal review of the argued discrepancies between the administrative law judge's findings about plaintiff's mental abilities and the ALJ's key hypothetical question to the vocational expert. A Rule 59(e) motion is appropriate to bring to the court's attention new evidence that was not available earlier or to point out a manifest error of law or fact. See, e.g., *Sigsworth v. City of Aurora*, 487 F.3d 506, 512 (7th Cir. 2007); *Navarro v. Fujii Heavy Industries, Ltd.*, 117 F.3d 1027, 1032 (7th Cir. 1997). The issues raised in the motion were raised sufficiently in the earlier briefing. They were addressed in some detail in the

court's original decision. It is quite possible, of course, that the court erred in its resolution of those issues, which can fairly be described as close. Plaintiff's motion points out that the issues are difficult and recounts the varied treatment that similar problems have received in the Seventh Circuit and among the district courts within the circuit. Such debates are not unusual. The court does not see such a manifest error of law such that the judgment should be set aside; this court is unlikely to be able to improve on its earlier treatment of those close issues. Plaintiff's motion to alter or amend the judgment is hereby denied.

So ordered.

Date: November 4, 2009



DAVID F. HAMILTON, CHIEF JUDGE
United States District Court
Southern District of Indiana

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