

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ROLLY O'DELL KINNELL,)	
)	
Plaintiff,)	
v.)	Case No. 13-4066-JAR-TJJ
)	
BARACK OBAMA, et al.,)	
)	
Defendants.)	
_____)	

MEMORANDUM AND ORDER
DENYING MOTION TO RECONSIDER

This matter is now before the Court Plaintiff Rolly Kinnell's Motion for Reconsideration of the Court's Order Adopting Report and Recommendation and dismissing his Complaint (Doc. 22). As the Tenth Circuit noted in *Hawkins v. Evans*,¹ the Federal Rules of Civil Procedure do not recognize a motion to reconsider, so such motions are construed as a Rule 59(e) motion to alter or amend if the motion is filed within twenty-eight days of the entry of judgment;² if the motion is filed more than twenty-eight days after entry of judgment, it is construed as a Rule 60(b) motion for relief from judgment. In this case, Plaintiff's request was filed within twenty-eight days of the Court's order. A motion to alter or amend judgment pursuant to Rule 59(e) may be granted only if the moving party can establish: (1) an intervening change in the controlling law; (2) the availability of new evidence that could not have been obtained previously through the exercise of due diligence; or (3) the need to correct clear error or prevent

¹ 64 F.3d 543, 546 (10th Cir. 1995).

² See Fed. R. Civ. P. 59(e) (stating a motion to alter or amend judgment must be filed no later than 28 days after entry of the judgment).

manifest injustice.³ Such a motion does not permit a losing party to rehash arguments previously addressed or to present new legal theories or facts that could have been raised earlier.⁴

Plaintiff presents no valid legal argument to warrant relief from the Court's order. Instead, he continues to put forth largely incomprehensible and offensive arguments and accusations, none of which establish subject matter jurisdiction nor state a plausible claim. Accordingly, Plaintiff's request is denied.

IT IS THEREFORE ORDERED BY THE COURT that Plaintiff Rolly Kinnell's Motion for Reconsideration (Doc. 22) is DENIED. Plaintiff is reminded that he is subject to the Court's previous Order prohibiting physical access to the Clerk's office (Doc. 27).

IT IS SO ORDERED.

Dated: April 22, 2014

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE

³*Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000); *Brumark Corp. v. Samson Res. Corp.*, 57 F.3d 941, 948 (10th Cir. 1995).

⁴*Servants*, 204 F.3d at 1012.