

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION at COVINGTON

TRACEY L. PRICE)	
)	
Plaintiff,)	
)	Civil Action No. 2:09cv142-JMH
)	
v.)	
)	
MICHAEL J. ASTRUE, COMMISSIONER)	MEMORANDUM OPINION AND ORDER
OF SOCIAL SECURITY,)	
)	
Defendant.)	
)	

** ** ** ** **

This matter is before the Court on Plaintiff's Motion to Alter or Amend Judgment [Record No. 19], pursuant to Fed.R.Civ.P. 59. The Court notes that Defendant did not file a Response to the Plaintiff's Motion within the time permitted by the local rules. According to LR 7.1(c), "[f]ailure to timely respond to a motion may be grounds for granting the motion." Thus, this Court has discretion to review the motion on its merits and rule accordingly, even where the non-moving party fails to respond. The Court being sufficiently advised, this motion is now ripe for decision.

Under Fed. R. Civ. P. 59(e), a motion to alter or amend a judgment can be granted where "there is a clear error of law, newly discovered evidence, an intervening change in controlling law, or to prevent manifest injustice." *GenCorp, Inc. v. Am. Int'l Underwriters*, 178 F.3d 804, 834 (6th Cir. 1999) (internal citations omitted); see also *Tritent Int'l Corp. v. Kentucky*, 395 F. Supp. 2d 521, 523 (E.D. Ky. 2005) (same). A Rule 59(e) motion is not "an

opportunity to re-argue a case." *Sault Ste. Marie Tribe of Chippewa Indians v. Engler*, 146 F.3d 367, 374 (6th Cir. 1998).

Plaintiff requests that the Court alter or amend the Court's September 28, 2010, Judgment [Record No. 18], which denied Plaintiff's motion for summary judgment, and granted summary judgment in favor of the defendant. Plaintiff, however, has not made any allegations regarding a change in the controlling law for this case or any newly discovered evidence. Furthermore, she has not persuaded this Court that the judgment contained any clear errors of law.

Instead, Plaintiff has restated her arguments, already presented to this Court upon the original pleadings of the parties. Having reviewed its earlier decision, the Court remains persuaded that its decision is properly founded on the facts before the Court and reflect a correct application of the relevant law.

Conclusion

For all of the reasons stated above, **IT IS ORDERED** that Plaintiff's Motion to Alter or Amend Judgment [Record No. 19] shall be, and the same hereby is, **DENIED**.

This the 3rd day of December, 2010.



Signed By:

Joseph M. Hood 

Senior U.S. District Judge