

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
LEXINGTON

CIVIL ACTION NO. 08-286-JBC

TERRY LEE MULLINS,

PLAINTIFF,

V.

MEMORANDUM OPINION AND ORDER

JOHN MARSHALL, ET AL.,

DEFENDANTS.

\* \* \* \* \*

This matter is before the court on the plaintiff's motion to appeal summary judgment, which the court construes as a motion for reconsideration. For the reasons below, the court will deny the motion.

**I. Background**

Terry Lee Mullins filed suit against John Marshall, a police officer for the city of Jackson, Kentucky, and several other defendants in connection with a gunshot wound Mullins sustained on January 24, 2008. This court granted Marshall's motion for summary judgment on March 26, 2010. R. 66. Mullins moved for reconsideration on April 8, 2010. R. 68.

**II. Analysis**

A motion to reconsider is treated as a motion to alter or amend judgment under Rule 59(e) of the Federal Rules of Civil Procedure. *Inge v. Rock Fin. Corp.*, 281 F.3d 613, 617 (6th Cir. 2002). A Rule 59(e) motion may be granted where there is a clear error of law, newly discovered evidence, an intervening change of

law, or to prevent manifest injustice. *GenCorp, Inc. v. Am. Int'l Underwriters*, 178 F.3d 804, 834 (6th Cir. 1999). Instead of seeking reconsideration based on any of these grounds, Mullins seeks to reargue the merits of the motion for summary judgment.

In addition to reasserting arguments that this court has previously rejected, Mullins now claims that he is entitled to relief due to Marshall's negligence and because Marshall had a constitutional duty to protect Mullins. These claims were not included in Mullins's third amended complaint, however, and a motion to reconsider is not an appropriate mechanism for raising new arguments or stating new claims. *Graves v. Bowles*, No. 07-207, 2010 U.S. Dist. LEXIS 26507, at \*7 (W.D. Ky. Mar. 19, 2010).

### III. Conclusion

Accordingly, **IT IS ORDERED** that the construed motion for reconsideration, R. 68, is **DENIED**.

Signed on June 10, 2010



*Jennifer B. Coffman*

JENNIFER B. COFFMAN, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY