

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENT SHULTZ,

Plaintiff,

v.

Case No. 10-10486
Honorable Patrick J. Duggan

MIGUEL BERRIOS, LAURIN THOMAS,
and JODI DEANGELO,

Defendants.

**OPINION AND ORDER DENYING PLAINTIFF'S MOTION TO ALTER OR
AMEND A JUDGMENT OR, ALTERNATIVELY, FOR RELIEF FROM
JUDGMENT**

At a session of said Court, held in the
U.S. District Courthouse, Eastern District
of Michigan on April 19, 2011.

PRESENT:HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Plaintiff, a *pro se* prisoner, commenced this civil rights action against Defendants pursuant to 42 U.S.C. § 1983, claiming that Defendants violated his constitutional rights during the parole hearing process. Defendants subsequently filed a motion for summary judgment which this Court granted in an opinion and order entered February 23, 2010. On the same date, the Court entered a judgment dismissing Plaintiff's complaint with prejudice. Presently before the Court is Plaintiff's motion to alter or amend the judgment

pursuant to Federal Rule of Civil Procedure 59(e) or, alternatively, for relief from judgment pursuant to Rules 60(b)(1) or (6).

Motions to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e) may be granted only if 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). A Rule 59(e) motion is not properly used as a vehicle to re-assert arguments already raised or to advance positions that, with reasonable diligence, could have been argued earlier, but were not. *Sault Ste. Marie Tribe of Indian Tribes v. Engler*, 146 F.3d 367, 374 (6th Cir. 1998). To obtain relief pursuant to Rule 60(b)(1) or (6), Plaintiff must demonstrate the existence of “mistake, inadvertence, surprise, or excusable neglect” or “any other reason that justifies relief.” Fed. R. Civ. P. 60(b)(1).

In his pending motion, Plaintiff reasserts the same arguments that he made in response to Defendants’ motion for summary judgment and in his objections to Magistrate Judge Hluchaniuk’s Report and Recommendation recommending that this Court grant Defendants’ motion. For the reasons previously stated by this Court and Magistrate Judge Hluchaniuk, those arguments do not demonstrate Plaintiff’s entitlement to relief.

Accordingly,

IT IS ORDERED, that Plaintiff’s motion to alter or amend a judgment or, alternatively, for relief from judgment is **DENIED**.

sPATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

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Magistrate Judge Michael Hluchaniuk