

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARLOS DUKES, *pro se*,

Plaintiff,

v

WILLIAM A. GARRETT,

Defendant.

Case No. 10-13273

HONORABLE ARTHUR J. TARNOW
SENIOR UNITED STATES
DISTRICT JUDGE

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION [12]**

Before the Court is Plaintiff's Motion for Reconsideration [12] of the Court's prior Order [11] filed on January 21, 2011 denying Plaintiff's Motion for Appointment of Counsel [10].

Plaintiff's Motion [12] was timely filed on February 4, 2011. *See* Fed. R. Civ. P. 6(a), (d); Local R. 7.1(h)(1).

Local Rule 7.1, Motion Practice, provides that:

[g]enerally, . . . the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must . . . demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

Local R. 7.1(h)(3); *see also* *Hansmann v. Fid. Invs. Institutional Servs. Co.*, 326 F.3d 760, 767

(6th Cir. 2003) (A motion for reconsideration is granted only "if the movant demonstrates that

the district court and the parties have been misled by a palpable defect, and correcting the defect

will result in a different disposition of the case.”). “A ‘palpable defect’ is a defect which is obvious, clear, unmistakable, manifest or plain.” *Fleck v. Titan Tire Corp.*, 177 F. Supp. 2d 605, 624 (E.D. Mich. 2001) (internal citations omitted). “The decision whether to grant reconsideration lies largely within the discretion of the court.” *Yuba Natural Res. Inc. v. United States*, 904 F.2d 1577, 1583 (Fed. Cir. 1990).

Here, Plaintiff has not shown any palpable defect in this Court’s order, as required by Local R. 7.1(h)(3). This Court lacks subject matter jurisdiction over Plaintiff’s Complaint, and the Complaint was dismissed on August 31, 2010 [6]. The motion offers arguments this Court previously rejected. To the extent any new arguments are raised, Plaintiff has failed to demonstrate a palpable defect.

The appointment of counsel motion was deemed moot. Nothing has changed. Plaintiff therefore has not demonstrated a palpable defect the correction of which would result in a different disposition of the case, the Court declines to reconsider that ruling. *See Hansmann*, 326 F.3d at 767. Therefore,

IT IS HEREBY ORDERED that Plaintiff’s Motion for Reconsideration [12] is **DENIED**.

SO ORDERED.

DATED: April 6, 2011

S/ARTHUR J. TARNOW
Arthur J. Tarnow
Senior United States District Judge

I hereby certify that a copy of the foregoing document was mailed to

Carlos Dukes (252767)
Woodland Center
Correctional Facility
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on April 6, 2011, by ordinary mail.

S/Michael Williams
Case Manager