

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RONALD WADE-BEY,
a/k/a RONALD IRVIN,

Plaintiff,

v.

NORMAN FLUERY, et al.,

Defendants.
_____ /

CASE NO. 2:07-CV-117

HON. ROBERT HOLMES BELL

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiff's motion to amend or correct the judgment entered on March 18, 2010. (Dkt. No. 106.) Despite its title, Plaintiff's motion is a motion for reconsideration of the Court's March 18, 2010, opinion adopting the Magistrate Judge's report and recommendation and granting Defendants' motion for summary judgment. A motion for reconsideration will be granted only if the moving party identifies a palpable defect in the Court's previous analysis by which the Court and the parties have been misled, and demonstrates that a different disposition of the case must result from a correction of the defect. W.D. Mich. LCivR 7.4(a). Plaintiff has failed to identify any palpable defect in the Court's previous opinion. In *Thomas v. Eby*, 481 F.3d 434 (6th Cir. 2007), the Sixth Circuit determined that the district court improperly considered evidence that the plaintiff had been convicted of misconduct for which he was accused in granting the defendant's motion to

dismiss the plaintiff's retaliation claim. In this case, however, the Court granted Defendants' motion for summary judgment, not motion to dismiss, and in doing so the Court was permitted to consider extrinsic evidence that "Plaintiff was found to have committed the actions alleged in the misconduct ticket." (Dkt. No. 103, at 4.) *Clemons v. Cook*, 52 F. App'x 762 (6th Cir. 2002) (unpublished) and *Henderson v. Baird*, 29 F.3d 464 (8th Cir. 1994), are the relevant authorities. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion to amend or correct the judgment (Dkt. No. 106), characterized as a motion for reconsideration, is **DENIED**.

Dated: April 15, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE