

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

JAMES HENRY FAIR

PLAINTIFF

V.

CIVIL ACTION NO. 1:14-CV-213-SA-DAS

HINDS COUNTY ECONOMIC ASSISTANCE, et al.

DEFENDANTS

ORDER

The Court dismissed this case instituted by *pro se* plaintiff James Henry Fair without prejudice because he failed to properly serve any defendant named in the complaint. Fair moved for reconsideration on June 24 and then filed a notice of appeal to the Fifth Circuit on July 6.¹

Fair's motion for reconsideration, filed within twenty-eight days of the dismissal, is properly evaluated under Federal Rule of Civil Procedure 59(e). *Charles L.M. v. Ne. Indep. Sch. Dist.*, 884 F.2d 869, 869 (5th Cir. 1989) (treating motion to reconsider dismissal without prejudice as a motion to alter or amend under Rule 59(e)). The Fifth Circuit has explained that Rule 59(e) "serves the narrow purpose of allowing a party to correct manifest errors of law or fact or to present newly discovered evidence and is not the proper vehicle for rehashing evidence, legal theories, or arguments that could have been offered or raised before the entry of judgment." *Knight v. Kellog Brown & Root Inc.*, 333 F. App'x 1, 8 (5th Cir. 2009) (citation omitted). Mississippi's district courts have recognized three potential grounds for granting a Rule 59(e) motion: "(1) an intervening change in controlling law, (2) the availability of new evidence not previously available, or (3) the need to correct a clear error of law or prevent manifest injustice." *Williamson Pounders Architects PC v. Tunica Cnty., Miss.*, 597 F. Supp. 2d 766, 767

¹ Under Federal Rule of Appellate Procedure 4(a)(4)(B)(i), the notice of appeal becomes effective today, the day the Court rules on Fair's motion for reconsideration.

(N.D. Miss. 2008) (citing *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990)).

The Court has reviewed Fair's motion and finds no grounds that would warrant reconsideration of his case. Fair re-iterates his allegations of wrongdoing against the Defendants, but he has not shown effective service of process or otherwise demonstrated good cause for his failure to properly serve any Defendant for more than eighteen months. Accordingly, his Motion for Reconsideration [42] is DENIED.

SO ORDERED, this the 29th day of July, 2016.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE