

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|------------------------|---|-------------------|
| MARTIN GOMEZ, |) | 8:12CV367 |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | MEMORANDUM |
| |) | AND ORDER |
| DENNIS WILSON, et al., |) | |
| |) | |
| Defendants. |) | |

This matter is before the court on Plaintiff’s Motion for Reconsideration, which the court liberally construes as a motion for relief pursuant to [Fed. R. Civ. P. 59\(e\)](#). (Filing No. [28](#).) Also pending is Plaintiff’s Motion for Leave to Appeal in forma pauperis (“IFP”). (Filing No. [30](#).) The court will address each Motion in turn.

I. Rule 59(e) Motion

On August 13, 2013, the court dismissed Plaintiff’s Complaint and entered Judgment against him. (Filing Nos. [26](#) and [27](#).) Liberally construed, Plaintiff seeks relief from the court’s Judgment pursuant to [Fed. R. Civ. P. 59\(e\)](#). (Filing No. [28](#).) “[Rule 59\(e\)](#) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence Such motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.” [U.S. v. Metro. St. Louis Sewer Dist.](#), 440 F.3d 930, 933 (8th Cir. 2006) (internal citations and quotations omitted).

The court has carefully reviewed Plaintiff's Motion and finds that he is not entitled to relief under [Rule 59\(e\)](#). Accordingly, Plaintiff's Motion for Reconsideration, liberally construed as a motion for relief pursuant to Rule 59(e), is denied.

II. Motion to Appeal IFP

On September 9, 2013, Plaintiff filed a timely Notice of Appeal (filing no. [29](#)) along with a Motion for Leave to Appeal IFP (filing no. [30](#)). Plaintiff is a nonprisoner and this case was removed to this court by Defendant. (*See* Filing No. [1](#).) Upon review of Plaintiff's Motion, the court finds that Plaintiff is financially eligible to appeal in forma pauperis.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Reconsideration (filing no. [28](#)), liberally construed as a motion for relief pursuant to Rule 59(e), is denied.
2. Plaintiff's Motion for Leave to Appeal IFP (filing no. [30](#)) is granted.
3. The Clerk of the court shall provide the Court of Appeals with a copy of this Memorandum and Order.

DATED this 24th day of September, 2013.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

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