

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CV-68-FL

DAVID HENRY ROGERS,)
)
Plaintiff,)
)
v.)
)
R.S. BURKE, JR. and)
U.S. VETERANS ADMINISTRATION,)
)
Defendants.)

ORDER

This matter comes before the court on plaintiff’s motion for reconsideration (DE # 37) to which defendants have not responded.

A brief recitation of the case aids resolution of the instant matter. On February 12, 2009, plaintiff initiated this action, seeking to enjoin defendants from reducing certain benefits. On November 2, 2009, the court dismissed plaintiff’s claims for lack of subject matter jurisdiction. Plaintiff appealed to the Fourth Circuit Court of Appeals but also later filed a motion for finding of civil contempt in this court after defendants reduced his benefits. On April 14, 2010, the court dismissed said motion for lack of jurisdiction as the motion essentially sought reconsideration of issues determined in the court’s November order which at the time were pending on appeal. The same day, plaintiff filed a motion to amend his motion for finding of contempt. On April 25, 2010, the court dismissed plaintiff’s motion to amend as moot. On May 3, 2010, plaintiff filed the instant motion, seeking reconsideration of both April orders. On May 24, 2010, the Fourth Circuit Court of Appeals affirmed this court’s judgment. On June 15, 2010, the Fourth Circuit stayed mandate of its judgment pending disposition of a petition or motion relating to rehearing.

The court declines to reconsider its April orders. Review of the record reveals that plaintiff's instant motion is one which seeks reconsideration of issues already determined in the case regarding this court's jurisdiction to review certain decisions of defendants. These issues remain before the Fourth Circuit. Accordingly, plaintiff's motion is DENIED (DE # 37.)

SO ORDERED, this the 21st day of June, 2010.

A handwritten signature in black ink that reads "Louise W. Flanagan". The signature is written in a cursive, flowing style.

LOUISE W. FLANAGAN
Chief United States District Judge