

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-cv-652-RJC**

ERIC GILES,)	
)	
Petitioner,)	
)	
Vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on Petitioner’s *pro se* “Motion to Alter or Amend Judgment Under Rule 59(e) Fed.R.Civ.P.,” (Doc. No. 15).

A party may file a Rule 59(e) motion to alter or amend no later than 28 days after the entry of a judgment. Fed. R. Civ. P. 59(e). Such a motion may only be granted in three situations: “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” Mayfield v. Nat’l Ass’n for Stock Car Auto Racing, Inc., 674 F.3d 369, 378 (4th Cir. 2012) (internal quotation marks omitted). “Rule 59(e) motions may not be used to make arguments that could have been made before the judgment was entered.” Hill v. Braxton, 277 F.3d 701, 708 (4th Cir. 2002).

Petitioner timely filed his motion to alter or amend, but has failed to show the existence of the limited circumstances under which a Rule 59(e) motion may be granted. He does not present evidence that was unavailable when he filed his complaint, allege an intervening change in the applicable law, or show that a clear error of law has been made that will result in manifest injustice. See Hill, 277 F.3d at 708. Although Petitioner contends that the Court misconstrued the arguments

he presented in his § 2255 motion to vacate, the present motion simply reiterates his belief that his prior California conviction was not for a felony offense, and that counsel was ineffective for failing to adequately address this issue. The Court considered and denied these claims. (Doc. No. 13). Petitioner's disagreement with the Court's legal conclusion provides no basis for Rule 59(e) relief.

IT IS, THEREFORE, ORDERED that:

(1) Petitioner's "Motion to Alter or Amend Judgment Under Rule 59(e) Fed.R.Civ.P.," (Doc. No. 15), is **DENIED**.

Signed: October 26, 2017



Robert J. Conrad, Jr.
United States District Judge

