

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ALI MEHDIPOUR,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-16-411-M
)	
KEITH SWEENEY, Oklahoma City)	
Police Officer, in his individual capacity,)	
J. BEFEBVRE, Oklahoma City)	
Police Officer, in his individual capacity,)	
R. HOLT, Oklahoma City Police)	
Lieutenant, in his individual capacity,)	
)	
Defendants.)	

ORDER

Before the Court is Plaintiff's Motion to Alter and/or Amend Judgment, filed February 8, 2017. On February 23, 2017, defendant Keith Sweeney ("Sweeney") responded. No reply was filed. Based on the parties' submissions, the Court makes its determination.

Plaintiff moves this Court, pursuant to Federal Rule of Civil Procedure 59(e)¹, to alter or amend its January 19, 2017 Order granting Sweeney's motion to dismiss on the grounds that plaintiff's claim for malicious prosecution was barred by the statute of limitations. However, since the Court did not enter a final judgment in this matter, the Court finds that plaintiff's motion is actually seeking relief under Rule 60(b)² and should be analyzed as a motion to reconsider.

¹ Federal Rule of Civil Procedure 59 pertains to a New Trial; Altering or Amending Judgment. Rule 59(e) provides that "A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment." Fed. R. Civ. P. 59(e).

² Federal Rule of Civil Procedure 60(b)(6) provides:
 On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for . . .
 any other reason that justifies relief.
 Fed R. Civ. P. 60(b)(6).

“Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct error or prevent manifest injustice.” *Servants of the Paraclete v. John Does I-XVI*, 204 F.3d 1005, 1012 (10th Cir. 2000). A motion to reconsider is appropriate “where the court has misapprehended the facts, a party’s position, or the controlling law” but is not appropriate “to revisit issues already addressed or advance arguments that could have been raised in prior briefing.” *Id.*

Plaintiff specifically asserts that the Court’s ruling was a manifest error, as the statute of limitations for his malicious prosecution claim did not begin to run until April 25, 2014, when the state court judge memorialized in writing his dismissal of the state charges and recalled the warrant against plaintiff.³ Sweeney contends that even if plaintiff was not put on notice that the time for his malicious prosecution claim had begun to run on March 19, 2014, when the state court judge orally dismissed the counts against plaintiff and the case was closed, he was certainly put on notice on April 3, 2014, when the state court judge issued an order memorializing his ruling in writing sustaining plaintiff’s motions to suppress, quash, and dismiss the state court action.


Having carefully reviewed the parties’ submissions, the Court finds that plaintiff has not presented any new grounds warranting reconsideration of the Court’s January 19, 2017 Order. Specifically, in its Order, the Court found that the time for plaintiff’s malicious prosecution claim began to run on March 19, 2014, when the state court judge sustained plaintiff’s motions to suppress, quash, and dismiss, as at that point the state court had dismissed the state court action

³ Plaintiff also asserts that instead of dismissal, this Court should have either granted plaintiff leave to amend his complaint or dismissed this action without prejudice. The Court acknowledges plaintiff’s assertions and advises plaintiff that in his response brief to Sweeney’s motion to dismiss, plaintiff did not seek leave to amend his complaint, and further, the Court’s Order did not specifically dismiss this action with prejudice, and if plaintiff’s counsel was unsure about the disposition of this matter, an inquiry to the Court would have informed plaintiff’s counsel of the correct disposition.

against plaintiff and closed the case. The Court finds that the state court's action on March 19, 2014, unambiguously put plaintiff on notice that the time for his malicious prosecution claim had started running. Therefore, the Court finds that plaintiff's motion to reconsider should be denied.

Accordingly, for the reasons set forth above, the Court DENIES Plaintiff's Motion to Alter and/or Amend Judgment [docket no. 24].

IT IS SO ORDERED this 18th day of July, 2017.


VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE