



"Rule 59(e) motions may be granted when 'the court has misapprehended the facts, a party's position, or the controlling law.'" *Nelson v. City of Albuquerque*, 921 F.3d 925, 929 (10th Cir. 2019) (quoting *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000)). In this case, the Commissioner bases his Rule 59(e) motion on legal error.

The Commissioner is correct in his assertion that the Court committed legal error by improperly placing the burden of proving Plaintiff's RFC on the Commissioner and is also correct in its assertion that the Court's legal error affected the outcome.

Having carefully reviewed the rules and regulations governing social security appeals, the Court finds the Commissioner's argument to be meritorious; and further finds that the ALJ's decision was supported by substantial evidence and is free of legal error. Accordingly, the Rule 59(e) Motion to Alter or Amend Judgment is **GRANTED**, and judgment will be altered to reflect that this Court **AFFIRMS** the Commissioner's decision in this matter.<sup>3</sup>

ENTERED on April 21, 2021.

  
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SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE

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<sup>3</sup> The filing of a Rule 59(e) motion within the 28-day period "suspends the finality of the original judgment" for purposes of an appeal. *FCC v. League of Women Voters of Cal.*, 468 U.S. 364, 373, n. 10 (1984) (internal quotation marks and alterations omitted). Only the disposition of a Rule 59(e) motion "restores th[e] finality" of the original judgment, thus starting the 30-day appeal clock. *Id.* See Fed. R. App. P. 4(a)(4)(A)(iv) (A party's "time to file an appeal runs" from "the entry of the order disposing of the [Rule 59(e)] motion"); See also *Banister v. Davis*, 140 S. Ct. 1698, 1703–04 207 (2020).