

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CALVIN ROUSE,	:	Civil No. 3:13-cv-1808
	:	
Plaintiff	:	(Judge Mariani)
	:	
v.	:	
	:	
PENNSYLVANIA DEPARTMENT OF CORRECTIONS, <i>et al.</i> ,	:	
	:	
Defendants	:	

MEMORANDUM

I. Introduction

Plaintiff, Calvin Rouse, a former inmate confined at the Retreat State Correctional Institution, in Hunlock Creek, Pennsylvania, (“SCI-Retreat”),¹ initiated the instant civil rights action pursuant to 42 U.S.C. § 1983. (Doc. 1). The matter is proceeding *via* an amended complaint. (Doc. 40). Named as Defendants are the Pennsylvania Department of Corrections, and the following individuals employed at SCI-Retreat: Correctional Officer Sweeney and Correctional Officer Keefer. Previously by Memorandum and Order dated January 4, 2016, the Court granted Defendants’ motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) and closed this action. (Docs. 68, 69).

Presently before the Court are Rouse’s motions (Docs. 71, 76) to alter or amend

¹ In an effort to ascertain the custodial status of Rouse, the Court accessed the Vinelink online inmate locator, which revealed that he is no longer in custody. Upon entering Rouse’s identifying information into the Vinelink online system, <https://vinelink.com/#/search>, his status was returned as: “out of custody...paroled.” See *also* (Doc. 83).

judgment pursuant to Federal Rule of Civil Procedure 59(e). For the reasons set forth below, the Court will grant the motions.

II. Standard of Review

As a threshold matter, the Court notes that Rouse styled his first motion (Doc. 71) as a motion to alter or amend judgment under Federal Rule of Civil Procedure 59(e), and styled his second motion (Doc. 76) as a motion for reconsideration. The Court will consider both motions as motions to alter or amend judgment pursuant to Rule 59(e). When a motion is filed within 28 days of the entry of judgment, it must be considered under Rule 59(e), not Rule 60(b). See FED. R. CIV. P. 59(e) advisory committee's note (2009 amend.) (expanding the former 10 day time period for filing a motion to alter or amend a judgment to 28 days). See *Rankin v. Heckler*, 761 F.2d 936, 942 (3d Cir.1985) (holding that “[r]egardless how it is styled, a motion filed within ten days of entry of judgment questioning the correctness of a judgment may be treated as a motion to alter or amend the judgment under Rule 59(e)”). In this case, the Court entered the final judgment on January 4, 2016. Rouse’s motions were filed on January 19, 2016, and February 3, 2016, within 28 days of entry of judgment. Accordingly, the Court will consider the motions under the rubric of Rule 59(e).

Motions to alter or amend a judgment under Federal Rule of Civil Procedure 59(e) serve primarily to correct analytical errors in a prior decision of the court. See FED. R. CIV.

P. 59(e); *United States v. Fiorelli*, 337 F.3d 282, 287-88 (3d Cir.2003). Under Rule 59(e), “a judgment may be altered or amended if the party seeking reconsideration shows at least one of the following grounds: (1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court granted the motion for summary judgment; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice.” *Max’s Seafood Café ex rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999). “A motion for reconsideration is not to be used as a means to reargue matters already argued and disposed of . . . [n]or is it to be used to put forth additional arguments which could have been made but which the party neglected to make before judgment.” *Waye v. First Citizen’s Nat. Bank*, 846 F.Supp. 310, 314 (M.D. Pa. 1994) (citation omitted). A motion for reconsideration is appropriate in instances where the court has “. . . misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension.” *Rohrbach v. AT&T Nassau Metals Corp.*, 902 F. Supp. 523, 527 (M.D. Pa. 1995), *vacated in part on other grounds on reconsideration* 915 F. Supp. 712 (M.D. Pa. 1996), *quoting Above the Belt, Inc. v. Mel Bohannan Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983). Reconsideration of a judgment is an extraordinary remedy, and the court grants such motions sparingly. *D’Angio v. Borough of Nescopeck*, 56 F.Supp.2d 502, 504 (M.D. Pa. 1999).

III. Discussion

In the instant motions, Rouse requests leave to further amend his complaint and correct other filings, and to compel responses to his discovery requests. (Docs. 71, 76, 77).

Rouse first claims that he did not know that he needed to file a brief in opposition to Defendants' renewed motion for judgment on the pleadings because he had already opposed the first motion for judgment on the pleadings. (Doc. 71; Doc. 77, p. 1). The procedural history of this case is as follows. On July 1, 2013, Rouse filed his initial complaint. (Doc. 1). On August 23, 2013, Rouse filed a supplement to the complaint. (Doc. 9). On March 28, 2014, Defendant Sweeney filed a motion dismiss the complaint. (Doc. 26). Rouse then filed a motion for leave to file an amended complaint, which the Court granted. (Docs. 32, 39). On August 7, 2014, Rouse filed his amended complaint. (Doc. 40). Defendant Sweeney answered the amended complaint and filed a motion for judgment on the pleadings. (Docs. 42, 43). Rouse filed a brief in opposition to Defendant Sweeney's motion for judgment on the pleadings. (Doc. 48). Rouse thereafter filed a motion to further amend the amended complaint in order to identify Keefer as the John Doe Defendant. (Doc. 50). The Court granted the motion to amend and directed service on Defendant Keefer. (Doc. 53). Defendants Sweeney and Keefer then filed an amended answer to the amended complaint. (Doc. 61). On July 14, 2015, the Court denied the first motion for judgment on the pleadings, noting that the motion was filed only on behalf of

Defendant Sweeney. (Doc. 63). The Order further stated that the motion for judgment on the pleadings was denied without prejudice to Defendants' right to reinstate the motion on behalf of both Defendants. (*Id.*). On July 14, 2015, Defendants Sweeney and Keefer filed a renewed motion for judgment on the pleadings. (Doc. 64). On January 4, 2016, the Court granted Defendants' renewed motion for judgment on the pleadings and entered judgment in favor of Defendants. (Docs. 68, 69). In the instant motions, Rouse seemingly argues that the filing of a brief in opposition to Defendants' renewed motion for judgment on the pleadings would have further developed and supported his claims.

Rouse next seeks reconsideration to obtain additional responses to his discovery requests. (Doc. 77, p. 2). Rouse's amended complaint alleged an access to courts claim and a retaliation claim. In the January 4, 2016 Memorandum, the Court found that Rouse failed to articulate any actual injury in support of his access to courts claim and failed to set forth any allegations setting forth a claim of retaliation. (Doc. 68, pp. 7-8, 10). In the instant motions, Rouse asserts that further responses to his discovery requests will develop and support his claims. (Docs. 71, 76, 77).


To the extent that Rouse argues that a brief in opposition to Defendants' motion for judgment on the pleadings and further discovery would have helped prove his claims, he has set forth grounds warranting reconsideration of this Court's January 4, 2016 Order. Out of an abundance of caution and in order to prevent manifest injustice, the motions for

reconsideration will be granted and this action will be reopened. By separate Memorandum and Order issued this date, Rouse will be granted a final opportunity to file a second amended complaint.

IV. Conclusion

Based on the foregoing, Rouse's motions (Docs. 71, 76) to alter or amend judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure will be granted and this action will be reopened. A separate Order shall issue.

Date: July 24, 2017


Robert D. Mariani
United States District Judge