

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

|                               |   |                |
|-------------------------------|---|----------------|
| JAMES MARTINEZ                | ) |                |
|                               | ) |                |
| v.                            | ) | NO. 3-08-0738  |
|                               | ) | JUDGE CAMPBELL |
| SAMUEL TIMOTHY MCGRAW, et al. | ) |                |

ORDER

Pending before the Court is Plaintiff's Motion for a New Trial or For Reconsideration (Docket No. 404). Defendants have filed a brief in opposition thereto (Docket No.407). Plaintiff's Motion is DENIED.

The Court may grant a Rule 59 motion to alter or amend if there is (1) a clear error of law; (2) newly discovered evidence; (3) an intervening change in controlling law; or (4) a need to prevent manifest injustice. *Intera Corp. v. Henderson*, 428 F.3d 605, 620 (6th Cir. 2005).

Motions to alter or amend, brought pursuant to Fed. R. Civ. P. 59, are entrusted to the Court's sound discretion. *Nagle Industries, Inc. v. Ford Motor Co.*, 175 F.R.D. 251, 254 (E.D. Mich. 1997). A motion under Rule 59 is not an opportunity to re-argue a case. *Roger Miller Music, Inc. v. Sony/ATV Publishing, LLC*, 477 F.3d 383, 395 (6th Cir. 2007). Rather, a motion under Rule 59 must either clearly establish a manifest error of law or must present newly discovered evidence. *Id.* A motion to alter or amend should not be used to relitigate previously considered issues, to submit evidence which could have been previously submitted in the exercise of reasonable diligence, or to

attempt to obtain a reversal of a judgment by offering the same arguments previously presented.  
*Nagle Industries*, 175 F.R.D. at 254.

The Court, having considered Plaintiff's arguments in connection with its prior Order (Docket No. 402), declines to amend that Order or to order a "new trial" in this case. Plaintiff has not carried his burden of establishing any of the reasons for relief under Rule 59. Therefore, Plaintiff's Motion (Docket No. 404) is DENIED.

IT IS SO ORDERED.

  
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TODD J. CAMPBELL  
UNITED STATES DISTRICT JUDGE