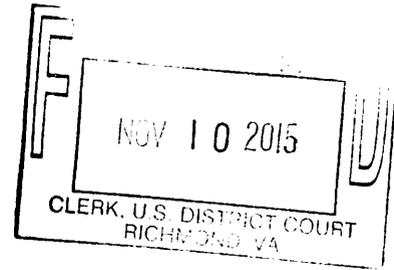


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



PRESTON A. SCOTT,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:15CV486-HEH
)	
CORRECTIONAL OFFICER)	
WALKER, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM OPINION
(Granting Rule 59(e) Relief and Reopening Action)

By Memorandum Opinion and Order entered on October 28, 2015, the Court dismissed this action because Plaintiff failed to pay the initial partial filing of \$16.27 or state under penalty of perjury that he did not have sufficient assets to pay such a fee. *See* 28 U.S.C. § 1915(b)(1). The Clerk apparently received the initial partial filing fee on October 27, 2015, but failed to note the receipt of the payment on the docket until October 29, 2015. On November 2, 2015, the Court received from Plaintiff a Request for Reconsideration of the dismissal of his action. (ECF No. 12.) Because the motion was filed within twenty-eight (28) days of the Court’s entry of the October 28, 2015 Memorandum Opinion and Order, the Court construes the motion as a motion to alter or amend the judgment pursuant to Federal Rule of Civil Procedure 59(e) (“Rule 59(e) Motion”). *See MLC Auto., LLC v. Town of Southern Pines*, 532 F.3d 269, 277–78 (4th Cir. 2008) (citing *Dove v. CODESCO*, 569 F.2d 807, 809 (4th Cir. 1978)).

“[R]econsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.” *Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998) (internal quotation marks omitted). The United States Court of Appeals for the Fourth Circuit has recognized three grounds for relief under Rule 59(e): “(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.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing *Weyerhaeuser Corp. v. Koppers Co.*, 771 F. Supp. 1406, 1419 (D. Md. 1991)). Here, the Court clearly erred when it dismissed Plaintiff’s action for failure to pay the initial partial filing fee when Plaintiff had submitted his payment. Accordingly, the Rule 59(e) Motion (ECF No. 12) will be granted. The October 28, 2015 Memorandum Opinion and Order will be vacated.

The Clerk is directed to send a copy of the Memorandum Opinion to Plaintiff.

It is so ORDERED.



/s/

HENRY E. HUDSON
UNITED STATES DISTRICT JUDGE

Date: Nov. 10, 2015
Richmond, Virginia