

NOV 14 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

JULIA C. HINDLEY, CLERK
BY: 
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FRANK E. REID, #1063812,)	
)	Civil Action No. 2:11cv00031
Plaintiff,)	
)	<u>MEMORANDUM OPINION &</u>
v.)	<u>ORDER</u>
)	
J. CARICO, ET AL.,)	By: Samuel G. Wilson
)	United States District Judge
Defendants.)	

This matter is before the court on plaintiff Frank E. Reid's, "Motion to Alter and Obtain Relief from Judgement" [Docket Item No. 172] signed by Reid on October 21, 2013, but not received by the court until November 6, 2013. In the interim, a jury heard the case and returned a verdict in favor of the defendants (October 29, 2013), upon which the court then entered judgment (October 30, 2013). Reid asks the court to reconsider the Magistrate Judge's ruling of October 22, 2013 denying Reid's motion for a continuance of the trial date. Despite its name, the court will construe Reid's filing as an objection under Federal Rule of Civil Procedure 72(a) and overrule it.

Under Federal Rule of Civil Procedure 72(a), a district judge must modify or set aside any part of a contested order ruled on by a Magistrate Judge that is clearly erroneous or contrary to law. Although the court did not receive Reid's objection in time to rule on it before trial, in retrospect, Reid's concerns about proceeding to trial without counsel as scheduled on October 28, 2013 did not bear out. The court finds the case was fairly tried, notwithstanding Reid's representation of himself. Proceeding with the case as scheduled also did not preclude Reid from

presenting sufficient evidence to the jury, including live testimony by multiple inmate witnesses. The court is mindful of the fact that Reid filed his case more than two years ago and had continuances granted three previous times. With little more than a week left before trial, Reid effectuated the removal of his counsel and again asked for a continuance. The court finds the Magistrate Judge's ruling denying a continuance was not clearly erroneous or contrary to law, agrees with the ruling, and concludes Reid's objection should be overruled.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that Reid's objection [Docket Item No. 172] is **OVERRULED**. The Clerk is directed to mail a copy of this order to the plaintiff.

ENTER: November 13th, 2013.


UNITED STATES DISTRICT JUDGE