

Mar 27 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Ronald Soles,

Plaintiff,

vs.

Ioan Gherman d/b/a USA Auto Transport, LLC
and Jason Brockman d/b/a JNJ Transport,
LLC,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2022-CP-23-05403

**ORDER DENYING THE DEFENDANT,
JASON BROCKMAN'S, MOTION TO
RECONSIDER**

The Defendant, Jason Brockman, filed a Motion to Reconsider Pursuant to SCRCP Rule 59(e) dated February 24, 2023, asking this Court to reconsider its February 24, 2023 ruling reflected in its Order signed February 28, 2023 denying Defendant's Motion for Summary Judgment.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." U.S. ex rel. Becker v. Washington Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2002) (stating that simple disagreements with the court's ruling will not support Rule 59(e) relief).¹ Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (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). Importantly, a motion for reconsideration is not a vehicle to re-litigate previously raised issues or "to raise argument or present evidence that could have been presented prior to the entry of judgment." Dash v. Mayweather, C/A No. 3:10-1036-

¹ Rule 59 is substantially the same as the Federal Rule. See Elam v. S.C. Dep't of Transp., 361 S.C. 9, 21, 602 S.E. 2d 772, 779 (2004) ("Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.").

JFA, 2010 U.S. Dist. LEXIS 95277, *2 (D.S.C. Sept. 13, 2010) (quoting Exxon Shipping Co. v. Baker, 554 U.S. 471, n.5 (2008)). In other words, “[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.” Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does “[a] party’s mere disagreement with the court’s ruling . . . warrant a Rule 59(e) motion.” In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig., 269 F.Supp. 3d 685, 691 (D.S.C. 2017); *see also* Lyons v. Fid. Nat’l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

After consideration of the issues raised in Defendant’s Motion, as well as those set forth arguments made during the initial hearing, the Court hereby DENIES Defendant’s Motion to Reconsider. Furthermore, it is ORDERED that the vehicle be delivered by Wednesday, March 1, 2023, at 4 p.m. to the original location discussed by the parties and a check from Plaintiff counsel’s trust account be exchanged in the amount of \$450.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: Ronald Soles vs. Ioan Gherman , defendant, et al

Case Number: 2022CP2305403

Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766