

Sep 09 2024

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTEENTH CIRCUIT

) CASE NO.: 2021-CP-22-00928

Richard A. Butts, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

**ORDER DENYING DEFENDANTS'
MOTION TO ALTER AND AMEND**

Miriam Mace, in her official capacity as
Treasurer of Georgetown County, and
Georgetown County, South Carolina,

Defendants.

On June 25, 2024, this Court issued an Order granting Plaintiff’s motion for partial summary judgment. The Order concluded that Act No. 236, 2022 S.C. Acts (“Act 236”) is unconstitutional retroactive legislation as applied to this case, which was filed several months prior to the effective date of Act 236. On July 3, 2024, Defendants Miriam Mace, in her official capacity as Treasurer of Georgetown County, and Georgetown County, South Carolina (“Defendants”) filed a motion to alter or amend judgment pursuant to Rule 59(e), SCRPC.

Having reviewed Defendants’ Rule 59 motion and considered the arguments, the Court denies the motion for the reasons set forth below.

STANDARD OF REVIEW

“In construing the South Carolina Rules of Civil Procedure, our Court looks for guidance to cases interpreting the federal rules.” *Maybank v. BB&T Corp.*, 416 S.C. 541, 565, 787 S.E.2d 498, 510 (2016) (citing *Gardner v. Newsome Chevrolet-Buick, Inc.*, 304 S.C. 328, 330, 404 S.E.2d 200, 201 (1991)). This is especially true where the state rule mirrors 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.”). The “Note” to Rule 59, SCRCPC confirms “[t]his Rule 59 is substantially the Federal Rule.”

Motions for reconsideration under Rule 59(e) 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). 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*, Civ. A. No. 3:10-1036 JFA, 2010 WL 3606829, at *1 (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.” *Charleston SC Property Holdings, LLC v. Rittenberg OP LLC*, Civ. Action No. 2023-CP-10-01512 (S.C. Cir. Ct. Sep. 8, 2023) (quoting *In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig.*, 269 F. Supp. 3d 685, 691 (D.S.C. 2017)).

CONCLUSION

In their motion, Defendants do not contend there has been a change in controlling law, nor do they offer any new factual evidence. Instead, Defendants merely attempt to reargue the very same arguments they previously raised in opposition to Plaintiff’s motion for partial summary

judgment. Based on the principles set forth above, the Court rejects these arguments and DENIES Defendants' Rule 59 motion. The Court's findings are amply supported by controlling law and each of Defendants' arguments merely reflect their disagreement with the Court's ruling.

AND IT IS SO ORDERED.

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Georgetown Common Pleas

Case Caption: Richard A Butts VS Administrator Georgetown County , defendant, et al
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It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134