

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

1 Dragon's Ascent Video Gaming Machine;  
SC Games of Skill, LLC,

Appellants,

vs.

South Carolina Law Enforcement Division  
(SLED),

Respondent.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

CASE NO.: 2022-CP-08-02026

**ORDER DENYING RESPONDENT'S  
MOTION TO ALTER, AMEND, AND  
RECONSIDER**

**RECEIVED**

**May 11 2023**

**SC Court of Appeals**

The Respondent, SLED, filed a Motion to Alter, Amend, and Reconsider pursuant to Rule 59, SCRCP, dated March 9, 2023, asking this Court to reconsider its previous Order in this matter and issue a substituted Order affirming the magistrate's decision that the gaming device in question violates South Carolina statute and should be destroyed.

#### 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).<sup>1</sup> 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-

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<sup>1</sup> 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 Respondent’s Motion as well as previous briefing, arguments, and proposed Orders, the Court hereby DENIES Respondent’s Motion to Alter, Amend, and Reconsider.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Berkeley Common Pleas

**Case Caption:** 1 Dragon's Ascent Video Gaming Machine , plaintiff, et al VS South Carolina Law Enforcement Division (Sled)

**Case Number:** 2022CP0802026

**Type:** Order/Other

IT IS SO ORDERED!

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