

IN THE STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

James Anthony Primus, #252315,  
Plaintiff,

v.

Cheron Hess, Michael Stobbe, and Bryan  
Stirling,

Defendants.

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

C/A No.: 2016-CP-40-0074

**RECEIVED**

AUG 04 2016

**SC Court of Appeals**

**ORDER DENYING PLAINTIFF'S RULE  
59(e) MOTION FOR RECONSIDERATION**

RICHLAND COUNTY  
FILED  
JUL 28 PM 12:43  
JANETTE W. HERRIDGE  
C.C.P. & G.S.

This matter is before the Court upon Plaintiff's "Motion to Alter or Amend the Judgment S.C.R.C.P. Rule 59(e)" [Motion for Reconsideration] of the Order granting Defendants' Motion to Dismiss. For the reasons set forth herein, Plaintiff's Motion for Reconsideration is denied.

Plaintiff's Complaint alleges Defendants updated Plaintiff's record with the South Carolina Department of Corrections ("SCDC") by changing a conviction of Assault and Battery of a High and Aggravated Nature ("ABHAN") from pled guilty to pled not guilty, guilty by jury trial. Plaintiff brought causes of action for breach of fiduciary duty, violation of the separation of powers doctrine, negligence, and violation of the South Carolina Tort Claims Act. Defendants are all employees of the SCDC. Defendants filed a Motion to Dismiss Plaintiff's claims pursuant to Rule 12(b)(6), SCRCPP. After conducting a hearing on April 21, 2016, this Court granted Defendants' Motion to Dismiss and dismissed all claims by Order filed April 27, 2016. Plaintiff then filed a Motion for Reconsideration pursuant to Rule 59(e), SCRCPP, on May 6, 2016.

Plaintiff's motion provides no legal basis warranting reconsideration of this Court's Order. Plaintiff's motion presents no new facts or law relevant to the Motion to Dismiss, Order granting the same, or the hearing held on the matter for the Court to reconsider. Plaintiff states that the Court did not review the "statutes and legislative history" or discuss the "pleadings and

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law” in Plaintiff’s motion for counsel. Plaintiff further argues that “the [Dorchester County] clerk of court lost jurisdiction over the case to alter or amend Plaintiff (sic) sentence.” Plaintiff also contends his criminal sentence should be reversed by the South Carolina Supreme Court. Finally, Plaintiff alleges that these matters were “not explained and discussed with Plaintiff in detail” at the motion hearing.

Plaintiff, however, fails to address what statutes and legislative history to which he refers. Plaintiff contends there were “cross motions” to be heard; however, Plaintiff’s motion was for the appointment of counsel, which was deemed moot and not heard as Defendants’ Motion to Dismiss was granted. Plaintiff offers no other facts, law, or evidence regarding his civil claims or reasoning in the Order granting Defendants’ Motion to Dismiss. In addition, Plaintiff’s ignores the facts in the record.

Plaintiff provided a copy of a South Carolina Administrative Law Court Order, James Primus, #252315, v. S.C. Dep’t Corr., Docket No. 2015-ALJ-04-0257-AP, with his Complaint, which states Plaintiff’s sentencing sheet was corrected by the Dorchester County Clerk of Court to properly reflect that Plaintiff had not pled guilty to a charge for ABHAN. Rather, Plaintiff pled not guilty and was found guilty by jury trial. This information was provided to the SCDC and corrected in Plaintiff’s central SCDC record.

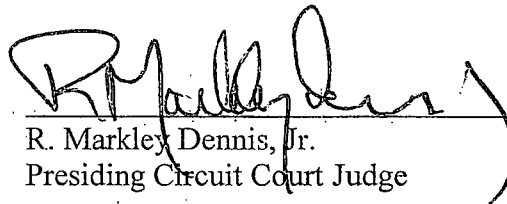
Plaintiff also contends that he should be permitted to amend his Complaint in his Motion for Reconsideration; however, Plaintiff does not provide any information, facts, or law regarding what he seeks to amend in the Complaint. Nevertheless, a Rule 59(e), SCRPC, motion is not the proper avenue in which to amend a complaint. Rule 15, SCRPC, addresses the proper means in which to amend the pleadings; however, Plaintiff’s Complaint was dismissed, so amendment is improper.

Finally, pursuant to Rule 59(f), SCRCP, the Court decides Plaintiff's Rule 59(e), SCRCP, Motion for Reconsideration without oral argument. See Pollard v. County of Florence, 314 S.C. 397, 444 S.E.2d 534 (Ct. App. 1994) (a Rule 59(e) motion may in the discretion of the court be determined on the briefs filed by the parties without oral argument).

After careful consideration of the record in this case and the submissions of the parties, this Court is unable to discover any legal basis warranting reconsideration of this Court's prior Order. There is no material fact or any principle of law that was overlooked, disregarded, or not appropriately considered by this Court in reaching its prior decision. Therefore, Plaintiff's Motion for Reconsideration/Motion to Alter or Amend Judgment pursuant to Rule 59(e), SCRCP, is hereby **DENIED**.

**IT IS SO ORDERED**

July 19, 2016  
Moncks Corner, South Carolina

  
R. Markley Dennis, Jr.  
Presiding Circuit Court Judge

*Handwritten initials/number*