IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GESA S. KALAFI-FELTON,

Plaintiff,

v.

PETER HUIBREGTSE, GARY BOUGHTON, BRIAN KOOL, MELANIE HARPER, and DAVID GARDNER,

Defendants.

ORDER

11-cv-480-slc

Plaintiff Gesa Kalafi-Felton has filed a Rule 59(e) motion for reconsideration of this court's October 9, 2012, opinion and order granting defendants' motion for summary judgment on plaintiff's retaliation claim. Dkt. 77. In support of the motion, Kalafi-Felton argues that this court should have submitted to the jury the question whether the First Amendment protected a letter he wrote to deputy warden Boughton in which he complained that Boughton had erred in finding that a grievance he filed was redundant of an earlier grievance. This court found that, in accusing Boughton of having never read the second grievance because, in Kalafi-Felton's words, "any idiot" who read it could see the issues were different from those raised in his prior grievance, Kalafi-Felton had complained in a disrespectful manner and therefore his speech was not protected. Kalafi-Felton insists that this court misinterpreted his "any idiot" remark and made a factual finding that is reserved for the jury.

Kalafi-Felton misunderstands the First Amendment analysis in prisoner cases. What he might have intended to convey by his remark is not the pivotal question. The relevant question is whether it was objectively reasonable for prison officials to *interpret* Kalafi-Felton's "any idiot" remark as disrespectful and to impose adverse consequences on him in response. *See Turner v. Safley*, 482 U.S. 78, 89 (1987) (prison restriction on speech is valid if it is "reasonably related"

to legitimate penological interests). The court analyzed this in detail in its summary judgment opinion and order, dkt. 75 at 8-12. I remain convinced that no rational jury could conclude that it was arbitrary or irrational for prison officials to interpret Kalafi-Felton's "any idiot" observation as disrespectful.

Kalafi-Felton makes a number of other arguments, but none of them persuades me that I erred in finding his remark did not enjoy First Amendment protection. Further, the October 15, 1999 letter from defendant Bought that he submits is not "newly-discovered" (Kalafi-Felton received it long before this lawsuit began), nor does it support an inference that Boughton's response to Kalafi-Felton's February 10, 2010 was retaliatory. In any case, my conclusion that Kalafi-Felton had adduced no evidence of retaliatory motive was a secondary finding not essential to the outcome. For all these reasons, the motion for reconsider is denied.

ORDER

IT IS ORDERED that the motion of plaintiff Gesa Kalafi-Felton to alter or amend the judgment, dkt. 77, is DENIED.

Entered this 10th day of December, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge