

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

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JOSHUA A. ANEY,

Plaintiff,

v.

CAPT. GILBERG, in his official and individual capacities; C/O D. ESSER, in his official and individual capacities; SGT. HOTTENSTEIN, in his official and individual capacities; THOMAS BROWN, SHAWN GALLINGER, JAMES BOISEN, CHAD WINGER and TIMOTHY NORDENGREN,

Defendants.  
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ORDER

02-C-131-C

Judgment was entered in this case on May 20, 2003, granting defendants' motion for summary judgment and dismissing the case. Now plaintiff has filed a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e). In support of this motion, plaintiff contends that I erred in dismissing this case because I failed to address on summary judgment plaintiff's claim that he was subjected to an unreasonable search following his extraction from his cell on September 16, 2001. The motion will be denied.

I call plaintiff's attention to this court's order entered herein on August 12, 2002, in which I granted defendants' motion to dismiss plaintiff's unreasonable search claim on the ground that plaintiff had failed to exhaust his administrative remedies with respect to this claim as required by 42 U.S.C. § 1997e(a). Because the claim was dismissed on exhaustion grounds, it was not error to fail to consider the claim on its merits in deciding defendants' motion for summary judgment.

ORDER

IT IS ORDERED that plaintiff's motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) is DENIED.

Entered this 4th day of June, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge