

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

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FRANK MALAVE,

Plaintiff,

v.

JAMES REED, M.D., GINGER JONES,  
and MICHAEL MOOREHEAD,

Defendants.  
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ORDER

04-C-824-C

After this civil action was removed to federal court from the Circuit Court for Adams County, Wisconsin, I dismissed the case on the ground that the statute of limitations governing Federal Tort Claims Act cases barred plaintiff's action. Judgment of dismissal was entered on November 26, 2004. Now plaintiff has filed a document titled "Motion to Reconsider Order and Request for Transfer Back to State Court," in which he seeks to challenge the dismissal order on its merits. Therefore, I construe plaintiff's motion as a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59.

Motions pursuant to Rule 59 must be made within ten days of the date of entry of the judgment in a case, and Fed. R. Civ. P. 6(b) explicitly bars enlargement of the time for

filing Rule 59(e) motions. Although weekends and holidays are excluded when calculating the 10-day period, plaintiff did not even sign his motion until December 13, 2004, three days after his 10-day period expired. Because plaintiff missed the deadline for filing his Rule 59 motion, he is precluded from filing such a motion at this or any other future time.

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

Entered this 21st day of December, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge