

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

JONATHON M. MARK,

Plaintiff,

ORDER

v.

05-C-279-C

Off. GUSTAFSON; Sgt. McARTHER; Lt. DOHMS;
Unit Manager DOUGHERTY; Mr. BROWN (head
of PRC); STEPHEN M. PUCKETT,

Defendants.

Judgment was entered in this case on August 31, 2006, following a decision on defendants' motion for summary judgment. Now plaintiff has filed a motion for reconsideration, which I construe as a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59.

The purpose of a Rule 59 motion is to bring to the court's attention newly discovered evidence or a manifest error of law or fact. E.g., Bordelon v. Chicago School Reform Bd. of Trustees, 233 F.3d 524, 529 (7th Cir. 2000). It is not intended as an opportunity for a party to reargue the merits of a case. Neal v. Newspaper Holdings, Inc. 349 F.3d 363, 368 (7th Cir. 2003). Motions under Rule 59 must be filed within ten days of the entry of

judgment. Fed. R. Civ. P. 59(b). Assuming plaintiff delivered his motion to prison authorities for mailing on September 14, 2006, the date plaintiff signed it, his motion is timely. Houston v. Lack, 487 U.S. 266 (1988).

In an affidavit supporting his motion, plaintiff makes factual assertions relating to the merits of his claim that he should have made in an affidavit filed in opposition to defendants' motion and that should have been the subject of proposed findings of fact. He does not contend that these facts are newly discovered and it is clear why that is so. The factual information plaintiff wants now to insert into the record is nothing more than elaboration on his personal religious beliefs and the religious significance of his magic seals. This is factual information plaintiff should have known when he filed his complaint in this court. His failure to meet his burden of proof on summary judgment is unfortunate, but it cannot be cured now by a second effort in a post-judgment motion.

ORDER

IT IS ORDERED that plaintiff's timely motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59 is DENIED. If plaintiff intends to appeal from the judgment, he has thirty days from the date of entry of this order in which to do so. His appeal must be accompanied by a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal so that the court can assess

the amount plaintiff must submit as an initial partial payment of the \$455 fee for filing an appeal.

Entered this 20th day of September, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge