

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

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JAY M. BARTLEY,

Plaintiff,

v.

STATE OF WISCONSIN DEPT.  
OF CORRECTIONS; MATTHEW  
J. FRANK; MARK HEISE; JUDY P.  
SMITH and CHRIS A. KRUEGER,

Defendants.  
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ORDER

07-C-143-C

This case was dismissed on April 5, 2007, after I screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A and concluded that his request for release on parole could not be heard in the context of a civil action brought pursuant to 42 U.S.C. § 1983 and that his remaining claims were legally meritless. Now plaintiff has filed a "motion for reconsideration," which I construe as a motion to alter or amend the judgment of dismissal 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 Reform Bd. of

Trustees, 233 F.3d 524, 529 (7th Cir. 2000). It is not intended as an opportunity to reargue the merits of a case. Neal v. Newspaper Holdings, Inc., 349 F.3d 363, 368 (7th Cir. 2003). In order to obtain relief under Rule 59, the movant must “clearly establish” his or her grounds for relief. Romo v. Gulf Stream Coach, Inc., 250 F.3d 1119, 1122 n.3 (7th Cir. 2001).

In his Rule 59 motion, plaintiff reargues the legal merits of his claims that defendants are violating his constitutional rights by refusing him entry into the sex offender treatment program so that he can become eligible for release on discretionary parole. In addition, he contends that this court erred in determining the merits of his case under 28 U.S.C. § 1915A without first allowing him an opportunity for a hearing or to present argument on his behalf. There is no point reiterating the rationale behind my decision that the state of Wisconsin has not granted plaintiff a liberty interest in discretionary parole or in acceptance into the sex offender treatment program. The order of dismissal speaks for itself.

As for plaintiff’s argument that this court violated his rights under the due process clause by screening his complaint and rendering a decision on its merits without setting a hearing or requesting briefing, this is a matter that has not been properly raised in the context of this action. If plaintiff wishes to challenge the constitutionality of 28 U.S.C. § 1915A, which directs district courts to screen prisoner complaints “before docketing, if feasible or, in any event, as soon as practicable after docketing,” and dismiss them if the

claims are frivolous, malicious or fail to state a claim upon which relief may be granted or are brought against a defendant who is immune from the relief sought, he will have to do so in a separate lawsuit.

ORDER

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

Entered this 24th day of April, 2007.

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