

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

BRYAN ANTHONY REO,	:	
	:	
Plaintiff,	:	Case No. 1:19-CV-02589-CAB
	:	
v.	:	Judge Christopher A. Boyko
	:	
MARTIN LINDSTEDT,	:	Magistrate Thomas A. Parker
	:	
Defendant.	:	

**COUNTER-DEFENDANT STATE OF OHIO’S MEMORANDUM IN OPPOSITION TO
DEFENDANT MARTIN LINDSTEDT’S MOTION TO AMEND OR ALTER
JUDGMENT AND/OR FROM RELIEF FROM JUDGMENT (DOC. 98)**

I. INTRODUCTION

Defendant Martin Lindstedt’s Motion to Amend or Alter Judgment and/or from Relief from Judgment (Doc. 98) is meritless and should be denied. Rather than provide any valid basis for altering or amending this Court’s entry dismissing the State of Ohio (Doc. 91), Defendant continues his racist, vulgar, inappropriate comments and taunts to all those involved in this case. *See generally* Defendant’s Motion to Amend, Doc. 98. As he fails to provide any reason for this Court to abandon its prior reasoning, his motion should be denied.

II. BACKGROUND

This case involves an online dispute between two individuals—Plaintiff Bryan Reo and Defendant Martin Lindstedt—that has gone on for numerous years. *See generally* Complaint, Doc. 1. In his Amended Answer, Defendant attempted to bring claims against various counter-defendants, including the State of Ohio. *See generally* Defendant’s Amended Answer and Counterclaim, Doc. 17.

The State ultimately filed a Motion to Dismiss (Doc. 31) based on immunity and Defendant's failure to state a claim against it, which was later granted. Specifically, the Magistrate Judge assigned to the case issued a Report and Recommendation in which he concluded that the claims against the State should be dismissed. *See* Report and Recommendation, Doc. 50, PAGEID #474-475. Defendant later objected to the Magistrate's Report and Recommendation, but his objections were overruled by this Court. *See* Opinion and Order, Doc. 91, PAGEID #984. Accordingly, Defendant's claims against the State were dismissed.

Now, Defendant attempts to bring the State back into this case by filing a Motion to Amend or Alter Judgment and/or Relief from Judgment. *See generally* Defendant's Motion to Amend, Doc. 98. Yet, Defendant completely fails to address why his motion should be granted. Rather, he simply continues to use racist, vulgar, and inappropriate language to harass Plaintiff and all of the Counter-Defendants. As he has not and cannot provide one reason why his motion should be granted, Defendant's motion (Doc. 98) should be denied.

III. LAW AND ARGUMENT

A. Standard of Review

"A district court has discretion to set aside a judgment under Rule 59(e) 'based on: (1) a clear error of law; (2) newly discovered evidence; (3) an intervening change in controlling law; or (4) a need to prevent manifest injustice.'" *Jones v. Natural Essentials, Inc.*, 740 Fed. Appx. 489, 494 (6th Cir. 2018) (quoting *Leisure Caviar, LLC v. United States Fish & Wildlife Serv.*, 616 F.3d 612, 615 (6th Cir. 2010) (citing *Intera Corp. v. Henderson*, 428 F.3d 605, 620 (6th Cir. 2005))) (internal quotations omitted). Moreover, "Rule 59(e) does not exist to provide an unhappy litigant an opportunity to relitigate issues the court has already considered and rejected." *Id.* at 495 (citing *Davison v. Roadway Exp., Inc.*, 562 F. Supp. 2d 971, 984 (N.D. Ohio 2008)). Rather, Rule 59(e)

is typically used for the purpose of allowing courts to fix their mistakes without the need of going through the appeals process. *See Howard v. United States*, 533 F.3d 472, 475 (6th Cir. 2008).

Rule 60(b) similarly bars parties from re-litigating the merits of their claims. *See Moro Aircraft Leasing, Inc. v. Keith*, No. 3:10-cv-2708, 2014 U.S. Dist. LEXIS 45807, at *4 (N.D. Ohio April 1, 2014) (citing *O'Connell v. Miller*, 8 Fed. Appx. 434, 435 (6th Cir. 2001)). Rather, relief from judgment is only available in unusual and extreme circumstances where the aggrieved party can establish one of the prerequisites enumerated in Rule 60(b) by clear and convincing evidence. *Id.* (citing *Info-Hold, Inc. v. Sound Merch., Inc.*, 538 F.3d 448, 454 (6th Cir. 2008) and *Lewis v. Alexander*, 987 F.2d 392, 396 (6th Cir. 1993)). Those prerequisites are:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b).

B. Defendant is not entitled to any relief.

Defendant is not entitled to relief under either Rule 59(e) or 60(b). For example, he does not claim that the Court committed a clear error in law, that he discovered new evidence that could not have been discovered previously, that any fraud was committed by the State, or that the judgment is void. To be sure, Defendant does not make any legal argument as to why this Court should revisit its decision to dismiss the claims brought against the State. Rather, his incoherent mumblings and racist and inappropriate comments mimic his similar statements made in all of his prior filings. Therefore, he is barred from raising these same arguments now. *See Jones*, 740 Fed. Appx. at 495 (Rule 59(e)); *Moro*, 2014 U.S. Dist. LEXIS 45807 at *4 (Rule 60(b)). Accordingly,

as Defendant has not shown and cannot show a reason for this Court to reconsider its previous decision, Defendant's motion (Doc. 98) should be denied.

IV. CONCLUSION

For the foregoing reasons, Defendant's motion (Doc. 98) should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed with the U.S. District Court, Northern District of Ohio and served by U.S. Postal Service on May 6, 2021, upon:

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Defendant/Counter-Plaintiff pro se

/s/ Michael A. Walton

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