

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,)
)
 Respondent/Plaintiff,)
)
 vs.)
)
 CLIVE HAMILTON,)
)
 Petitioner/Defendant.)
 _____)

**Case No. 02-40157-03-JAR
11-4036-JAR**

MEMORANDUM AND ORDER

This comes before the Court on Petitioner Clive Hamilton’s Motion for Reconsideration (Doc. 1029). Citing to Fed. R. Civ. P. 59(e), Petitioner asks the Court to reconsider its Memorandum and Order denying his motion to vacate under 28 U.S.C. § 2255 (Doc. 1028).

Local Rule 7.3(a) provides that “[p]arties seeking reconsideration of dispositive orders or judgments must file a motion pursuant to Fed. R. Civ. P. 59(e) or 60.”¹ A motion to alter or amend judgment under Rule 59(e) may be granted only if the moving party can establish: (1) an intervening change in the controlling law; (2) the availability of new evidence that could not have been obtained previously through the exercise of due diligence; or (3) the need to correct clear error or prevent manifest injustice.² Such a motion does not permit a losing party to rehash arguments previously addressed or to present new legal theories or facts that could have been

¹D. Kan. Rule 7.3(a).

²*Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000); *Brumark Corp. v. Samson Res. Corp.*, 57 F.3d 941, 948 (10th Cir. 1995).

raised earlier.³

Petitioner presents no valid legal argument to warrant relief from the Court's order. Instead, he repeats arguments and allegations regarding application of the Tenth Amendment and whether a conspiracy charge requires a corresponding substantive offense charge made in support of his section 2255 motion. Petitioner's broad assertions are merely a rehash of his previous arguments and are insufficient to warrant relief from judgment under Rule 59(e). Accordingly, Petitioner's motion is denied.

IT IS THEREFORE ORDERED BY THE COURT that Petitioner Clive Hamilton's Motion for Reconsideration (Doc. 1029) is DENIED.

IT IS SO ORDERED.

Dated: December 8, 2011

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE

³*Servants*, 204 F.3d at 1012; *Brown v. Presbyterian Healthcare Servs.*, 101 F.3d 1324, 1332 (10th Cir. 1996), *cert. denied*, 520 U.S. 1181 (1997).