

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

Roderick F. Fields,

Plaintiff,

vs.

Case No. 07-03310-JTM

Aimee Huffman, *et al.*,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the court on plaintiff Roderick Fields' Motion to Alter or Amend Judgment.

Fields filed a complaint alleging a deprivation of his constitutional rights in violation of 42 U.S.C. § 1983 on December 13, 2007. On July 16, 2009, the court appointed counsel for Fields. On March 1, 2010, the court appointed new counsel for Fields, and three attorneys entered appearances on Fields' behalf. On August 20, 2010, the court granted summary judgment to the defendants. On August 30, 2010, Fields, appearing pro se, filed this Motion to Alter or Amend Judgment pursuant to Fed. R. Civ. P. 59(e).

A grant of reconsideration under Rule 59(e) is only appropriate where the court has misapprehended (1) the facts, (2) a party's position, or (3) the controlling law. *Barber ex rel. Barber v. Colo. Dept. Revenue*, 562 F.3d 1222, 1228 (10th Cir. 2009). Fields argues that the court misapprehended the facts, but he fails to provide facts not considered by the court in ruling

on the Motion for Summary Judgment. As the government points out, the affidavits Fields attaches to this motion had been filed in other court documents over two years ago. (Doc. 28, Ex. A-B).

Additionally, Fields' motion fails to meet the requirement that every motion be signed. Fed. R. Civ. P. 11(a). This requirement provides that a party may appear through counsel or on his own behalf. If the party is represented by counsel, the motion must be signed by the party's attorney. Although the rule allows an unrepresented party to sign his own motion, this does not apply here. The court appointed counsel to Fields, so he is not an unrepresented party. Fields' signature on the motion is therefore insufficient to meet Rule 11(a).

IT IS ACCORDINGLY ORDERED this 3<sup>rd</sup> day of December, 2010, that the petitioner's Motion to Alter or Amend Judgment (Dkt. No. 140) is denied.

s/ J. Thomas Marten  
J. THOMAS MARTEN, JUDGE