

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

MILTON LEE,

Plaintiff,

v.

**CITY OF TOPEKA and
OFFICER KARR,**

Defendants.

Case No. 10-cv-4126-CM/JPO

MEMORANDUM AND ORDER

Plaintiff is proceeding *pro se* and brought a 42 U.S.C. § 1983 claim against the City of Topeka and Officer Karr arising from his July 4, 2010 arrest. The court denied plaintiff's motion to amend his complaint on September 8, 2011, and entered judgment the next day. Plaintiff moved the court on September 26, 2011, to reconsider the September 8, 2011 order. The court treated plaintiff's motion as a motion to alter or amend the judgment and denied the motion on September 29, 2011.

Currently before the court is plaintiff's Motion to Alter or Amend a Judgment (Doc. 48), which was filed on October 7, 2011. Specifically, plaintiff requests that the court alter or amend the September 9, 2011 judgment entered against him because of "new evidence."

The availability of new evidence is a basis for altering or amending a judgment. Fed. R. Civ. P. 59(e); *Tindall v. Freightquote.com, Inc.*, No. 10-2364-EFM, 2011 U.S. Dist. LEXIS 98082, at *1-4 (D. Kan. Aug. 13, 2011) (citing *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000)). But plaintiff's motion fails to identify any new evidence or explain how it would impact any part of the court's decision in this case. See *Nagim v. Napolitano*, 10-cv-00329, 2011 U.S. Dist. LEXIS 94558, at * 3 (D. Colo. Aug. 24, 2011) (denying motion to alter or amend judgment because plaintiff failed to demonstrate how new evidence "calls any aspect of the court's resolution of this

matter into doubt”). Instead, plaintiff’s motion merely reiterates the arguments previously raised and rejected.

Plaintiff’s motion fails to provide a basis for altering or amending the September 9, 2011 judgment. And the court is not aware of any changed facts justifying the requested relief. Accordingly, plaintiff’s motion is denied.

To the extent plaintiff disagrees with the court’s orders in this case, his recourse is through an appeal to the Tenth Circuit. The court cautions plaintiff that repetitious or frivolous filings in this case may result in the imposition of sanctions against him or a restriction on future filings.

IT IS THEREFORE ORDERED that plaintiff’s Motion to Alter or Amend a Judgment (Doc. 48) is denied.

Dated at this 12th day of October, 2011, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge