

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

LAURENTI BASARGIN,

Plaintiff,

v.

Case No. 15-3057-JTM

RONALD ROBINSON, ET AL.,

Defendants.

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's pro se motion for reconsideration (Dkt. 68), of the court's Memorandum and Order filed April 10, 2017 (Dkt. 66). Plaintiff claims that he did not receive notice of a dismissal because he was homeless and without an address upon release from prison.

The court may grant a motion to reconsider under Fed. R. Civ. Pr. 59(e)¹ to correct manifest errors of law or fact, in light of newly discovered evidence, or an intervening change in the law. *Brumark Corp. v. Samson Res. Corp.*, 57 F.3d 941, 944 (10th Cir. 1995); *Sump v. Fingerhut, Inc.*, 208 F.R.D. 324, 327 (D. Kan. 2002). The court has discretion whether to grant a motion to reconsider. *See Brumark Corp.*, 57 F.3d at 944.

Plaintiff fails to cite an intervening change of law or the existence of newly discovered evidence. And the court finds that no manifest error of law or fact occurred. While it appears that the court's order denying plaintiff's motion for information (Dkt. 62) was returned undelivered by the prison, this order did not dismiss plaintiff's case. Plaintiff provided the court with a notice of change of address prior to the court's Memorandum and Order granting

¹ Plaintiff's motion to reconsider was filed within the 28-day time period; thus, Fed. R. Civ. Pro. 59(e) applies. *See Sump v. Fingerhut, Inc.*, 208 F.R.D. 324, 326 (D. Kan. 2002) (courts utilize Rule 59(e) or 60 depending on whether the movant has complied with the time period embodied in Rule 59(e)).

defendant's motion to dismiss. Therefore, the reasons provided by plaintiff do not warrant reconsideration and his motion is denied.

IT IS THEREFORE ORDERED this 31st day of May, 2017, that plaintiff's pro se motion to reconsider (Dkt. 68) is denied for the reasons stated herein.

s/ J. Thomas Marten
Judge J. Thomas Marten
United States District Court