

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA

Monte Everett Congleton v. Commonwealth of Virginia, et al.

Civil Action No. 3:25CV874 · No. 3:25CV874 · Decided January 20, 2026

SUMMARY

The court denies the plaintiff’s motion for reconsideration under Federal Rule of Civil Procedure 59(e) after dismissing the action without prejudice for failure to return a consent-to-collection-of-fees form and pay the statutory filing fee. The court concludes that the plaintiff has not shown a recognized basis for Rule 59(e) relief, but directs the Clerk to file the complaint as a new civil action because the plaintiff appears intent on pursuing the litigation.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia
JURISDICTION	United States District Court for the Eastern District of Virginia
DECIDED	January 20, 2026
DOCKET	3:25CV874
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 59(e) for reconsideration of the dismissal without prejudice of his civil action for failure to comply with an order concerning payment of the filing fee.
STANDARD OF REVIEW	A Rule 59(e) motion is an extraordinary remedy used sparingly and may provide relief to accommodate an intervening change in controlling law, account for newly available evidence, correct a clear error of law, or prevent manifest injustice.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion
PARTIES	Monte Everett Congleton v. Commonwealth of Virginia, et al.

TOPICS

- motion for reconsideration
- civil procedure
- motions to dismiss
- pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Congleton's post-judgment filings should be construed as a motion under Federal Rule of Civil Procedure 59(e).
2. Whether Congleton demonstrated a basis for Rule 59(e) relief from the dismissal without prejudice.
3. Whether the court properly dismissed the action for failure to comply with its fee-related order and failure to prosecute.

HOLDINGS

1. Filings made within twenty-eight days after entry of judgment that seek reconsideration are construed as motions under Federal Rule of Civil Procedure 59(e).
2. Reconsideration was not warranted because Congleton did not identify an intervening change in controlling law, newly available evidence, a clear error of law, or manifest injustice.
3. The court appropriately dismissed the action without prejudice because Congleton failed to return the consent to collection of fees form and did not pay the statutory filing fee, demonstrating a willful failure to prosecute.

KEY QUOTATIONS

“[R]econsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.”

“The plaintiff failed to return his consent to collection of fees form, and the Court appropriately dismissed the action.”

FACTUAL BACKGROUND

The court ordered Congleton to return a consent to collection of fees form so that he could pay the full filing fee, warning that failure to comply within thirty days would result in summary dismissal. He neither returned the form within the required period nor paid the statutory filing fee. After dismissal, he sent letters asserting that he had not received the full thirty-day period and attached a consent form.

PROCEDURAL HISTORY

The court conditionally docketed the action and directed Congleton to sign and return a consent to collection of fees form or pay the statutory filing fee. After he failed to comply, the court dismissed the action without prejudice under Rule 41(b). Congleton then filed letters and a completed consent form, which the court construed as a Rule 59(e) motion. The court denied reconsideration but directed the Clerk to file the complaint as a new civil action.

DISPOSITION

other

REMAND INSTRUCTIONS

The Rule 59(e) motion was denied. The Clerk was directed to file Congleton's complaint as a new civil action and docket a copy of the memorandum order in that action; the present civil action remained closed.

CASES CITED

- MLC Auto., LLC v. Town of S. Pines, 532 F.3d 269, 277-78 (4th Cir. 2008)
- Dove v. CODESCO, 569 F.2d 807, 809 (4th Cir. 1978)
- Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998)
- Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993)
- Weyerhaeuser Corp. v. Koppers Co., 771 F. Supp. 1406, 1419 (D. Md. 1991)
- Atkins v. Marathon LeTourneau Co., 130 F.R.D. 625, 626 (S.D. Miss. 1990)

OPINION

Congleton

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE VIRGINIA tn 0, 2026

MONTE EVERETT CONGLETON, SUR Us, □□□□□□ □□□□

Plaintiff, v. Civil Action No. 3:25CV874 COMMONWEALTH OF VIRGINIA, ef al, Defendants.

MEMORANDUM OPINION

By Memorandum Order entered on November 6, 2025, the Court conditionally docketed the plaintiff's action. At that time, the Court directed the plaintiff to affirm his intention to pay the full filing fee by signing and returning a consent to collection of fees form. The Court warned the plaintiff that a failure to comply with the above directive within thirty (30) days of the date of entry thereof would result in summary dismissal of the action. The plaintiff failed to comply with the Court's order to return a consent to collection of fees form. As a result, he did not qualify for in forma pauperis status. Furthermore, he had not paid the statutory filing fee for the instant action. See 28 U.S.C. § 1914(a). Therefore, his conduct demonstrated a willful failure to prosecute. See Fed. R. Civ. P. 41(b). Accordingly, by Memorandum Opinion and Order entered on December 16, 2025, the Court dismissed the action without prejudice. On January 5, 2026, the Court received two letters, one which claims, "you have not let me have the full 30 day request period" and that he was "hoping a lesser cost would apply." (ECF No. 12, at 1 (spelling corrected).) The plaintiff also attached a consent to collection of fees form. (ECF No. 10.) Although the plaintiff's reasons for seeking reconsideration are not entirely clear, the request will be construed as a motion filed pursuant to Federal Rule of Civil Procedure 59(e) ("Rule 59(e) Motion"). See MLC Auto., LLC v. Town of S. Pines, 532 F.3d 269, 277-78 (4th Cir. 2008) (stating that filings made within twenty-eight days after the entry of judgment are construed as Rule 59(e) motions (citing Dove v. CODESCO, 569 F.2d 807, 809 (4th Cir. 1978))). "[R]econsideration of a judgment after its entry

is an extraordinary remedy which should be used sparingly.” *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998) (citation omitted) (internal quotation marks omitted), The United States Court of Appeals for the Fourth Circuit has recognized three grounds for relief under Rule 59(e): “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing *Weyerhaeuser Corp. v. Koppers Co.*, 771 F. Supp. 1406, 1419 (D. Md. 1991); *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990)). The plaintiff does not explicitly address any of the above recognized grounds for relief in his Rule 59(e) Motion. The plaintiff also fails to demonstrate any clear errors of law in the Court’s conclusions or that the dismissal of this action resulted in manifest injustice. The plaintiff failed to return his consent to collection of fees form, and the Court appropriately dismissed the action. Accordingly, the Rule 59(e) Motion, (ECF No. 12), will be DENIED. Nevertheless, because it appears that the plaintiff remains intent on litigating his complaint, the Court will DIRECT the Clerk to file his complaint as a new civil action. The Clerk will be DIRECTED to docket a copy of this Memorandum Order in the new civil action. Once a new civil action has been opened, the Court will continue to process the action. The present civil action, however, remains closed. An appropriate Order shall accompany this Memorandum Opinion. aa art SP Date: 20 Po De2E Senior thrid Cael isffict Judge Richmond, Virginia