

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States Olympic and Paralympic Museum v. Small Business Administration

United States Olympic and Paralympic Museum · No. Civil Action No. 22-cv-3785 (TSC) · Decided January 6, 2026

SUMMARY

The court denies the Government’s motion for reconsideration of an earlier decision remanding the United States Olympic and Paralympic Museum’s Shuttered Venue Operators Grant application to the Small Business Administration. The court holds that the motion improperly raised a new mootness argument and that the SBA’s denial was not self-explanatory or supported by an adequate statement of reasons under the Administrative Procedure Act and 5 U.S.C. § 555(e).

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Tanya S. Chutkan
JURISDICTION	United States District Court for the District of Columbia
DECIDED	January 6, 2026
DOCKET	Civil Action No. 22-cv-3785 (TSC)
DISPOSITION	other
PROCEDURAL POSTURE	The Government moved under Federal Rule of Civil Procedure 59(e) for reconsideration of the court's prior order, which had granted in part the Museum's motions for summary judgment and a preliminary injunction, denied the Government's cross-motion for summary judgment, and remanded the matter to the SBA for reconsideration.
STANDARD OF REVIEW	A Rule 59(e) motion may be granted only for an intervening change in controlling law, newly available evidence, or the need to correct clear error or prevent manifest injustice. Agency action is reviewed under the Administrative Procedure Act to determine whether it is arbitrary or capricious and whether the agency provided a reasoned explanation.
PRECEDENTIAL VALUE	Published district court opinion
PARTIES	Small Business Administration, Administrator of the Small Business Administration v. United States Olympic and Paralympic Museum

TOPICS

motion for reconsideration

judicial review of agency action

administrative law

federal spending

civil procedure

PRACTICE AREAS

administrative law

federal civil procedure

judicial review of agency action

federal spending

QUESTIONS PRESENTED

1. Whether the Government could use a Rule 59(e) motion to raise for the first time the argument that a subsequent SBA decision mooted the Museum's claims and deprived the court of subject-matter jurisdiction.
2. Whether the SBA's denial was self-explanatory under 5 U.S.C. § 555(e) and therefore satisfied the requirement to provide the grounds for denial.
3. Whether the SBA's failure to explain the reasoning underlying its denial violated the minimum requirements of reasoned decision-making under the Administrative Procedure Act.

HOLDINGS

1. A Rule 59(e) motion is not a vehicle for presenting theories or arguments that could have been advanced earlier in the litigation; in any event, the Museum's challenge was not mooted because it alleged a continuing procedural violation that was repeated in the subsequent agency action.
2. The SBA's denial was not self-explanatory because determining the agency's rationale required multiple inferential steps concerning the Museum's 2019 and 2020 revenues and the alternative eligibility pathway.
3. Because the SBA failed to provide a reasoned explanation making clear the path it took, its denial failed the minimum requirements of reasoned decision-making under the Administrative Procedure Act and was arbitrary and capricious.

KEY QUOTATIONS

“One of the basic procedural requirements of administrative rulemaking is that an agency must give adequate reasons for its decisions.” (at 3)

“Because the denial was not self-explanatory and the agency failed to provide a reasoned explanation that made clear the path it took, its decision failed to satisfy the minimum requirements of reasoned decision making under the Administrative Procedure Act.” (at 5)

FACTUAL BACKGROUND

The Museum applied for a Shuttered Venue Operators Grant in August 2021. It reported no earned revenue in 2019 or the first quarter of 2020 and answered no to whether it had experienced a 25 percent revenue reduction between 2019 and 2020. The SBA initially provided only a generic explanation for the denial, later stated that the application was at least in part incomplete, and ultimately issued a new denial based on the Museum's

inability to demonstrate the required revenue loss or first-quarter 2020 revenue. The Museum alleged that the deficient explanation deprived it of a meaningful opportunity to address the agency's eligibility determination and present evidence concerning sponsorship earnings.

PROCEDURAL HISTORY

The Museum applied for a Shuttered Venue Operators Grant and was denied by the SBA. After the Museum challenged the denial under the Administrative Procedure Act, the SBA issued a further denial during the litigation. The court previously granted the Museum's motions in part, denied the Government's cross-motion for summary judgment, and remanded to the agency. The Government then sought reconsideration, arguing that the subsequent agency decision mooted the claims and that the original denial was self-explanatory; the court denied reconsideration.

DISPOSITION

other

CASES CITED

- Leidos, Inc. v. Hellenic Republic, 881 F.3d 213, 217 (D.C. Cir. 2018)
- Firestone v. Firestone, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (per curiam)
- New York v. United States, 880 F. Supp. 37, 38 (D.D.C. 1995)
- Patton Boggs LLP v. Chevron Corp., 683 F.3d 397, 403 (D.C. Cir. 2012)
- Encino Motorcars, LLC v. Navarro, 579 U.S. 211, 221 (2016)
- Bowman Transportation, Inc. v. Arkansas-Best Freight System, Inc., 419 U.S. 281, 286 (1974)
- Tourus Recs., Inc. v. Drug Enf't Admin., 259 F.3d 731, 737 (D.C. Cir. 2001)
- Roelofs v. Secretary of the Air Force, 628 F.2d 594, 600 n.33 (D.C. Cir. 1980)
- Estate of Gaither ex rel. Gaither v. D.C., 771 F. Supp. 2d 5, 10 (D.D.C. 2011)
- Securities & Exchange Commission v. Bilzerian, 729 F. Supp. 2d 9, 14 (D.D.C. 2010)
- Delta Ltd. v. U.S. Customs & Border Prot. Bureau, 393 F. Supp. 2d 15, 17 (D.D.C. 2005)
- Pickus v. U.S. Bd. of Parole, 507 F.2d 1107, 1111 (D.C. Cir. 1974)
- Organic Trade Ass'n v. U.S. Dep't of Agric., 370 F. Supp. 3d 98, 111 (D.D.C. 2019)

OPINION

PER CURIAM.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA UNITED STATES OLYMPIC AND PARALYMPIC MUSEUM, Plaintiff, v. Civil Action No. 22-cv-3785 (TSC) SMALL BUSINESS ADMINISTRATION, et al., Defendants. OPINION AND ORDER Plaintiff United States Olympic and Paralympic Museum (“the Museum”) sued the Small Business Administration (“SBA”) and its Administrator, alleging that the agency’s denial of its application for a Shuttered Venue Operators Grant (“SVOG”) was arbitrary and capricious.

See generally Am. Compl., ECF No. 17. Before the court is the Government's Motion for Reconsideration, ECF No. 41, of the court's Memorandum Opinion and Order, ECF Nos. 39, 40, granting in part and denying in part Plaintiff's motions to consider extra-record evidence, for summary judgment, and for a preliminary injunction, ECF Nos. 20, 22; denying the Government's cross motion for summary judgment, ECF No. 32; and remanding to the agency for reconsideration.

For the reasons below, the court will DENY the Government's motion for reconsideration. I. BACKGROUND The court set forth the relevant background in its previous Memorandum Opinion. See ECF No. 39. To summarize, Plaintiff applied for an SVOG in August 2021 and was denied. AR 1, Page 1 of 6 383, 545. An applicant can establish eligibility for an SVOG by demonstrating at least a 25% loss in earned revenue from one quarter of 2019 to the same quarter of 2020.

See 15 U.S.C. § 9009a(a)(1)(A)(i)(II). A set of Frequently Asked Questions ("FAQs") posted on the SBA's website also provide that "[f]irms not in operation in 2019 may qualify for an SVOG if their gross earned revenues for the second, third, or fourth quarter of 2020 demonstrate a reduction of not less than 25% from their gross earned revenue for the first quarter of 2020." AR 504.

In its application, Plaintiff reported no revenue in 2019 or the first quarter of 2020 and responded "No" to the question asking whether it experienced a 25% reduction in revenue between 2019 and 2020. AR 9, 467, 486.

After Plaintiff requested an explanation for the denial, the SBA sent a form email stating that "SVOG applications have been declined for a number of reasons, including, but not limited to, common issues such as meeting eligibility criteria and missing application information." AR 545.

The agency declined to provide "specific reasoning for individual applicants." *Id.* In denying Plaintiff's administrative appeal, the SBA stated that the denial was "at least in part... based on" an "[i]ncomplete application," but noted that there may have been other reasons for the decline. AR 22–23.

After Plaintiff sued, the SBA issued a new decision again denying Plaintiff's application, but this time explaining that it denied the application because the Museum was unable to demonstrate the required 25% revenue loss between 2019 and 2020 or revenue during the first quarter of 2020. AR 485–86. Plaintiff filed an Amended Complaint challenging the new decision, alleging that the SBA's failure to explain its initial denial "deprived the Museum of a meaningful opportunity to address the reason and provide evidence on appeal showing that the agency's conclusion of non-eligibility was erroneous," rendering the denial decision arbitrary and Page 2 of 6 capricious.

Am. Compl. ¶ 54; see *id.* ¶¶ 55–57. The parties cross moved for summary judgment, and Plaintiff also moved for a preliminary injunction and for the court to consider extra-record evidence as to

its 2020 revenue from sponsorship payments. See ECF Nos. 20, 22, 32.

The court granted in part and denied in part Plaintiff's motion to consider extra-record evidence and Plaintiff's motion for summary judgment and for a preliminary injunction; denied the Government's cross motion for summary judgment; and remanded to the agency for reconsideration. See ECF Nos. 39, 40. II. LEGAL STANDARD Under Federal Rule of Civil Procedure 59(e), "the court may grant a motion to amend or alter a judgment under three circumstances only: (1) if there is an 'intervening change of controlling law'; (2) if new evidence becomes available; or (3) if the judgment should be amended in order to 'correct a clear error or prevent manifest injustice.'" *Leidos, Inc. v. Hellenic Republic*, 881 F.3d 213, 217 (D.C.

Cir. 2018) (quoting *Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (per curiam)). "A Rule 59(e) motion to reconsider is not simply an opportunity to reargue facts and theories upon which a court has already ruled," *New York v. United States*, 880 F. Supp. 37, 38 (D.D.C. 1995), nor is it a vehicle to raise new issues or advance new arguments that could have been presented earlier in the litigation, see *Patton Boggs LLP v. Chevron Corp.*, 683 F.3d 397, 403 (D.C.

Cir. 2012). Granting a Rule 59(e) motion is "an extraordinary measure." *Leidos*, 881 F.3d at 217. Under the Administrative Procedure Act, a "reviewing court shall... hold unlawful and set aside agency action" that is "arbitrary" or "capricious." 5 U.S.C. § 706(2)(A). "One of the basic procedural requirements of administrative rulemaking is that an agency must give adequate reasons for its decisions." *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016). "That Page 3 of 6 requirement is satisfied when the agency's explanation is clear enough that its 'path may reasonably be discerned.'" *Id.* (quoting *Bowman Transp., Inc. v. Arkansas–Best Freight System, Inc.*, 419 U.S. 281, 286 (1974)). "[W]here the agency has failed to provide even that minimal level of analysis, its action is arbitrary and capricious and so cannot carry the force of law." *Id.* In particular, the denial of "a written application" requires "a brief statement of the grounds for denial" unless the agency is "affirming a prior denial or... the denial is self-explanatory." 5 U.S.C. § 555(e). "This requirement not only ensures the agency's careful consideration of such requests, but also gives parties the opportunity to apprise the agency of any errors it may have made and, if the agency persists in its decision, facilitates judicial review." *Tourus Recs., Inc. v. Drug Enf't Admin.*, 259 F.3d 731, 737 (D.C.

Cir. 2001). "A self-explanatory denial... must be in such form that its mere denial fully informs the party of all he would otherwise be entitled to have stated." *Roelofs v. Sec'y of Air Force*, 628 F.2d 594, 600 n.33 (D.C. Cir. 1980) (quoting S. Doc. No. 248, 79th Cong., 2d Sess. 265–68 (1946)). III. ANALYSIS The Government argues for the first time that the SBA's issuance of a new decision after Plaintiff filed suit mooted Plaintiff's claims and deprived the court of subject-matter jurisdiction.

See Mot. for Reconsideration at 6–8. But a motion for reconsideration is not “a vehicle for presenting theories or arguments that could have been advanced earlier.” *Estate of Gaither ex rel. Gaither v. D.C.*, 771 F. Supp. 2d 5, 10 (D.D.C. 2011) (quoting *Secs. & Exch. Comm’n v. Bilzerian*, 729 F.Supp.2d 9, 14 (D.D.C. 2010)); see *Delta Ltd. v. U.S. Customs & Border Prot.*

Bureau, 393 F. Supp. 2d 15, 17 (D.D.C. 2005) (“Rule 59(e) motions are not granted if the court suspects the losing party is using the motion to reargue the same theory or to assert new arguments that could have been raised prior to final judgment.”). And in any case, the argument is Page 4 of 6 unpersuasive.

The Amended Complaint challenges the SBA’s most recent denial decision, arguing that it was the product of a deficient administrative process that prevented Plaintiffs from presenting relevant evidence about their sponsorship earnings. See Am. Compl. ¶¶ 44–45, 52–57.

Because Plaintiffs allege a continuing violation based on the same alleged procedural error, the original controversy was not mooted by subsequent agency action. See *Pickus v. U.S. Bd. of Parole*, 507 F.2d 1107, 1111 (D.C. Cir. 1974) (explaining that superseding agency actions that repeat the same alleged procedural error “preserve, rather than moot, the original controversy”); *Organic Trade Ass’n v. U.S. Dep’t of Agric.*, 370 F. Supp. 3d 98, 111 (D.D.C.

2019) (“Agencies can moot claims against them by promulgating new rules that cure previous procedural defects”). The Government next reargues that because the denial was “self-explanatory” under 5 U.S.C. § 555(e), it was not arbitrary and capricious. Mot. for Reconsideration at 8. According to the Government, the fact that Plaintiff stated in its application that it began operations in 2015 “made clear on its face that Plaintiff did not fit within the limited exception to the general reduction in revenue rule,” which “applied only to ‘entities that began operation in 2020.’” *Id.* at 5 (quoting AR 504); see AR 1.

But the FAQs do not unambiguously limit that exception to entities that began operations in 2020; they merely clarify that businesses “not in operation in 2019 may qualify for an SVOG” and explain how such entities may qualify using 2020 revenues. AR 486, 504. It is also not immediately apparent that the denial rested on the Museum’s failure to demonstrate at least a 25% reduction in revenue in the second, third, or fourth quarter of 2020 as compared to the first quarter of 2020.

Reaching that conclusion requires several inferential steps: it assumes that, because the Museum had no earned revenue in 2019, it was unable to satisfy the general requirement of a 25% revenue reduction between 2019 and 2020, and therefore the only possible path to eligibility was to show a 25% reduction in revenue within 2020 itself. By omitting this Page 5 of 6 reasoning, the agency failed to afford Plaintiff the “grounds for denial” to which it was entitled.

5 U.S.C. § 555(e). Because the denial was not self-explanatory and the agency failed to provide a reasoned explanation that made clear the path it took, its decision failed to satisfy the minimum requirements of reasoned decision making under the Administrative Procedure Act. IV. CONCLUSION For the foregoing reasons, the Government's Motion for Reconsideration, ECF No. 41, is DENIED.

Date: January 6, 2026 Tanya S. Chutkan TANYA S. CHUTKAN United States District Judge Page 6 of 6