

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

EDUARDO SANTA,  
Plaintiff,

v.

CAROLYN W. COLVIN,  
Acting Commissioner,  
Social Security Administration,  
Defendant.

C.A. No. 11-162-M

**ORDER**

Defendant Acting Commissioner Colvin seeks reconsideration of this Court's February 19, 2013 Memorandum and Order (ECF No. 17) granting Plaintiff Eduardo Santa's Motion to Reverse the Decision of the Commissioner. (ECF No. 19.) Mr. Santa objects to the Commissioner's motion. (ECF No. 21.)

The First Circuit has set forth the law governing motions to alter or amend a judgment under Rule 59(e) of the Federal Rules of Civil Procedure:

Rule 59(e) allows a party to direct the district court's attention to newly discovered material evidence or a manifest error of law or fact and enables the court to correct its own errors and thus avoid unnecessary appellate procedures. The rule does not provide a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party to introduce new evidence or advance arguments that could and should have been presented to the district court prior to the judgment.

*Aybar v. Crispin-Reyes*, 118 F.3d 10, 16 (1st Cir. 1997) (quoting *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996)). "It is generally accepted that a party may not, on a motion for reconsideration, advance a new argument that could (and should) have been presented prior to the district court's original ruling." *Cochran v. Quest Software, Inc.*, 328 F.3d 1, 11 (1st Cir.

2003). “This principle has deep prudential roots. Litigants normally must frame the issues in a case before the trial court rules.” *Id.*

In this case, the magistrate judge issued a Report and Recommendation (R&R) on September 17, 2012. (ECF No. 14.) The Commissioner did not file any papers in response to the R&R. Mr. Santa filed an objection to the R&R. (ECF No. 16.) Under Rule 72(b)(2) of the Federal Rules of Civil Procedure, the Commissioner had fourteen days to respond to Mr. Santa’s objection. *See also* D.R.I. LR Cv 72(d)(3). The Commissioner did not respond. Instead, four weeks after this Court’s issuance of a Memorandum and Order, the Commissioner filed a Motion for Reconsideration. (ECF No. 19.)

Most of the Commissioner’s arguments in its motion to reconsider should have been raised prior to this Court’s ruling. For example, the Commissioner dedicates numerous pages to arguments pertaining to the ALJ’s reasoning about the evaluation of four medical providers that saw Mr. Santa. (ECF No. 19 at 5-9.) Those arguments do not pertain to “newly discovered material evidence,” nor do they raise “a manifest error of law or fact.” Those arguments should have been made in October of 2012 and because they were not, they will not be considered at this stage of the litigation, a month after this Court’s order has issued.

Defendant’s Motion for Reconsideration (ECF No. 19) is therefore DENIED.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "John J. McConnell, Jr.", written in a cursive style.

John J. McConnell, Jr.  
United States District Judge

April 23, 2013