

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

_____	)	
PARRISH CHASE,	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 12-0058-M
	)	
KENNETH WALKER, et al.,	)	
Defendants.	)	
_____	)	

**MEMORANDUM AND ORDER**

JOHN J. MCCONNELL, JR., United States District Judge.

Before the Court is Plaintiff Parrish Chase’s Motion to Amend or Alter the Judgment filed pursuant to Rule 59(e). (ECF No. 33.) In his motion, Mr. Chase essentially asks the Court to reconsider its previous Memorandum and Order (ECF No. 31) dismissing this case for failure to state a claim against Defendants Kenneth Walker, Victoria Almeida, and Nancy Garcia. Specifically, Mr. Chase asks the Court to withdraw judgment, allow oral argument, and allow him leave to amend the Complaint. (ECF No. 33 at 1.) Defendants oppose the motion. (ECF No. 35.) Because the Court finds that Mr. Chase fails to raise adequate grounds for reconsideration of the final judgment, Mr. Chase’s motion is DENIED.

A motion that challenges “the correctness of a judgment [is] properly construed as [a] motion[ ] under Rule 59(e).” *Nat’l Metal Finishing Co., Inc. v. BarclaysAmerican/Commercial, Inc.*, 899 F.2d 119, 122 (1st Cir. 1990). Pursuant to Rule 59(e), “a motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.” *See Fed. R. Civ. P. 59(e).*

“Rule 59(e) motions are aimed at *reconsideration*, not *initial consideration*. Thus, parties should not use them to raise arguments which could, and should,

have been made before judgment issued. Motions under Rule 59(e) must either clearly establish a manifest error of law or must present newly discovered evidence. They may not be used to argue a new legal theory.”

*Fed. Deposit Ins. Corp. v. World Univ. Inc.*, 978 F.2d 10, 16 (1st Cir. 1992) (internal citations and quotations omitted).

In his motion, Mr. Chase argues that the Court committed an error of law in its decision granting Defendants’ motion to dismiss. In that decision, the Court held that Mr. Chase could not state a claim for declaratory or injunctive relief against the Parole Board because they acted within the scope of their official duties as quasi-judicial officers and enjoy absolute immunity under § 1983. (ECF No. 31 at 2-3.) As points of error, Mr. Chase argues that quasi-judicial immunity is not dispositive of his substantive due process claim, that he sought injunctive relief against the Board in his complaint, and an ongoing legal violation merits his request for declaratory judgment. (ECF No. 34 at 2-4.) He also argues that the Court should permit him to amend his complaint. (*Id.* at 5-6.) The Court finds that Mr. Chase’s motion is a complete re-argument of his initial opposition to the Defendants’ motion to dismiss. The only new legal argument Mr. Chase raises is the First Circuit’s decision in *Brown v. State*, No. 12-1403, 2013 WL 646489, at \*1 (1st Cir. Feb. 22, 2013), which the Court will consider herein.

Relying on *Brown*, Mr. Chase argues that the Court erred in dismissing his substantive due process claim because he alleged in his complaint that he was denied parole for “arbitrary or impermissible reasons.” (ECF No. 34 at 2); *Brown*, 2013 WL 646489, at \*1. Legally, the First Circuit confirmed that Parole Board members were not subject to claims under § 1983 or for injunctive relief, Board members enjoyed absolute immunity, and declaratory relief is not available against Parole Board members where there is no ongoing legal violation. *Brown*, 2013 WL 646489, at \*1. The First Circuit reversed the district court’s decision dismissing the case,

however, finding that the plaintiff's claim was "not patently meritless" because he alleged that he was denied parole due to a legal matter pending in state court, an impermissible reason in light of the constitutional right to access the courts. *Id.* at 1, 3. The First Circuit remanded so the district court could consider whether the plaintiff alleged an ongoing legal violation. *Id.* at 2.

Mr. Chase's reliance on *Brown* fails to raise any manifest errors of law because the law set forth in *Brown* regarding the absolute immunity of a parole board acting within the scope of their duties is consistent with what the Court applied in its initial Memorandum and Order dismissing Mr. Chase's case.<sup>1</sup> (ECF No. 31 at 2-3.) Furthermore, unlike the plaintiff in *Brown*, Mr. Chase failed to allege an ongoing legal violation because, in his case, the Parole Board made its decision based on a permissible ground, the seriousness of his offense. *Brown*, 2013 WL 646489, at \*2 (quoting *Mills v. Maine*, 118 F.3d 37, 55 (1st Cir. 1997)) ("Declaratory judgment is unavailable where...there is no ongoing legal violation.") As such, Mr. Chase is not entitled declaratory relief or to injunctive relief under the First Circuit's decision in *Brown* and his motion under Rule 59(e) raising this case as evidence of the Court's error of law must fail.

Further, the Court sees no reason to allow Mr. Chase to amend his complaint because legally, his claim cannot survive because of the inapplicability of *Brown* and the Parole Board's immunity under the facts of this case. "Consent to file amended pleadings 'shall be freely given when justice so requires,' unless the amendment would be futile or reward undue delay." *Adorno v. Crowley Towing and Transp. Co.*, 443 F.3d 122, 126 (1st Cir. 2006) (quoting Fed. R. Civ. P. 15(a)); see *Brown*, 2013 WL 646489, at \*1. Because of the circumstances of Mr. Chase's

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<sup>1</sup> While this decision discusses Mr. Chase's argument under *Brown* in the context of his motion to alter or amend, the Court considers his use of *Brown* inappropriate because that case should have been raised earlier as it was available to Mr. Chase prior to the Court's decision. See *Nat'l Metal Finishing Co.*, 899 F.2d at 123. Thus, Mr. Chase effectively waived his right to rely on *Brown* in this motion as grounds for reconsideration. *Id.*

claims and the prevailing law governing them, the Court finds that amending the complaint would be futile.

Because Mr. Chase has failed to introduce new evidence or to establish a manifest error of law committed in the Court's decision to dismiss his complaint, Mr. Chase's Motion to Amend or Alter a Judgment (ECF No. 33) is DENIED.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "John J. McConnell, Jr." with a stylized flourish at the end.

John J. McConnell, Jr.  
United States District Judge

June 5, 2013