

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

KATHY V. WILLIAMS,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	No. 02-2568-KHV
JOHN E. POTTER, POSTMASTER GENERAL, UNITED STATES POSTAL SERVICE,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER

Kathy Williams, pro se, brings suit against defendant John E. Potter, Postmaster General of the United States Postal Service (“USPS”), alleging that the USPS discriminated against her on the bases of race, sex, religion and disability, and retaliated against her for protected activity, in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e et seq. as amended, and the Vocational Rehabilitation Act of 1973 (“Rehabilitation Act”), as amended, 29 U.S.C. § 791, 794. On May 5, 2004, the Court granted defendant’s summary judgment motion as to plaintiff’s claims of discrimination based on religion and disability and retaliation for protected activity. See Memorandum And Order (Doc. #70) filed May 5, 2004. This matter is now before the Court on Plaintiff’s Objection To And Appeal Of Memorandum And Order (Doc. #72) filed May 24, 2004, which the Court construes as a motion for reconsideration under D. Kan. Rule 7.3.¹ For reasons

¹ To the extent that plaintiff seeks to appeal the Court’s grant of summary judgment as to some of her claims, the appeal is premature because the Court has not yet entered judgment in this case. See Fed. R. App. P. 4(a)(1)(B) (notice of appeal may be filed within 60 days after judgment); Fed. R. App. P. 4(a)(2) (if notice of appeal filed after district court decision announced but before judgment entered, appeal treated as filed on date of entry of judgment); see Ashley Creek Phosphate Co. v. Chevron USA., Inc., 315 F.3d 1245, 1262-63 (10th Cir. 2003); Fed. R. Civ. P. 54(b) (continued...)

stated below, the Court overrules plaintiff's motion.

Legal Standards

The Court has discretion whether to grant a motion to reconsider. See Hancock v. City of Okla. City, 857 F.2d 1394, 1395 (10th Cir. 1988). The Court may recognize any one of three grounds justifying reconsideration: an intervening change in controlling law, availability of new evidence, or the need to correct clear error or prevent manifest injustice. See Major v. Benton, 647 F.2d 110, 112 (10th Cir. 1981); Burnett v. W. Res., Inc., 929 F. Supp. 1349, 1360 (D. Kan. 1996). A motion to reconsider is not a second opportunity for the losing party to make its strongest case, to rehash arguments, or to dress up arguments that previously failed. See Voelkel v. Gen. Motors Corp., 846 F. Supp. 1482, 1483 (D. Kan.), *aff'd*, 43 F.3d 1484 (10th Cir. 1994). Such motions are not appropriate if the movant only wants the Court to revisit issues already addressed or to hear new arguments or supporting facts that could have been presented originally. See Van Skiver v. United States, 952 F.2d 1241, 1243 (10th Cir. 1991).

The Court affords a pro se plaintiff some leniency and must liberally construe a pro se complaint. See Oltremari v. Kan. Soc. & Rehab. Serv., 871 F. Supp. 1331, 1333 (D. Kan. 1994). While pro se complaints are held to less stringent standards than pleadings drafted by lawyers, however, pro se litigants must follow the same procedural rules as other litigants. See Hughes v. Rowe, 449 U.S. 5, 9 (1980); Green v. Dorrell, 969 F.2d 915, 917 (10th Cir. 1992). The Court may not

¹(...continued)

(absent Rule 54(b) certification “any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties”).

assume the role of advocate for a pro se litigant. See Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991).

Plaintiff's motion is not timely and therefore should be overruled. D. Kan. Rule 7.3 requires that a motion to reconsider be filed within 10 days after entry of the order. See Calumet Gaming Group-Kansas, Inc. v. The Kickapoo Tribe of Kan., 987 F Supp. 1321, 1331 (D. Kan. 1997). The order here was filed on May 5, 2004. Therefore, accounting for weekends, any motion under D. Kan. Rule 7.3 was due on May 19, 2004. Plaintiff did not file her motion until May 24, 2004. Accordingly, the Court denies plaintiff's motion as untimely.

Alternatively, even if plaintiff had timely filed her motion to reconsider, the Court would overrule it on the merits.² Plaintiff primarily argues that in support of its motion for summary judgment, defendant presented falsified documents and perjured testimony, and that such falsification in itself shows pretext for discrimination.³ Plaintiff, however, does not point to specific record evidence which supports a conclusion that the Court relied upon falsified documents and perjured testimony. The remainder of plaintiff's arguments merely re-hash purported facts and issues which the Court previously considered and rejected. As such, they are improper subject matter for a motion to reconsider. Revisiting issues already addressed is not the purpose of a motion to reconsider. Comeau v. Rupp, 810 F. Supp. 1172, 1174 (D. Kan. 1992).

² The Court's order of May 5, 2004 sets forth a chronology of this dispute, as well as a detailed summary of the factual background. The Court does not repeat it here.

³ For example, plaintiff asserts that "the alleged Facts utilized by the Court is duplication of fraudulently misrepresented arguments exhibiting inaccuracies within Defendants request for judgment. Plaintiff asserts officers of this Court deliberate misrepresentations and erred presentation obstruct justice wherein legal ramifications and prohibitions need attach." Doc. #72 at 4.

IT IS THEREFORE ORDERED that plaintiff's Objection To And Appeal Of Memorandum And Order (Doc. #72) filed May 24, 2004, which the Court construes as a motion for reconsideration under D. Kan. Rule 7.3, be and hereby is **OVERRULED**.

Dated this 19th day of August, 2004 at Kansas City, Kansas.

s/Kathryn H. Vratil
Kathryn H. Vratil
United States District Judge