

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MICHAEL R. SPENGLER, :
 :
 Plaintiff, :
 :
 v. : Civ. No. 21-147-RGA
 :
 BOY SCOUTS OF AMERICA, et al., :
 :
 Defendants. :

MEMORANDUM ORDER

At Wilmington, this 15th day of March, 2021, having considered Plaintiff's motion for reconsideration (D.I. 6);

1. Plaintiff Michael R. Spengler, Booking Number #39842, who has been a pretrial detainee since 2013/2014 at Twin Towers Correctional Facility in Los Angeles, California, filed this action on February 3, 2021. (D.I. 2 at 6). He proceeds *pro se* and sought leave to proceed *in forma pauperis*. (D.I. 1).

2. On February 12, 2021, the Court denied Plaintiff's motion for leave to proceed *in forma pauperis*. (D.I. 5). The Prison Litigation Reform Act ("PLRA") provides that a prisoner cannot bring a new civil action or appeal a judgment in a civil action *in forma pauperis* if he has three or more times in the past, while incarcerated, brought a civil action or appeal in federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). While incarcerated, Plaintiff has received more than three strikes for frivolous filings.

3. The purpose of a motion for reconsideration is to “correct manifest errors of law or fact or to present newly discovered evidence.” *Max’s Seafood Café ex rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999). “A proper Rule 59(e) motion . . . must rely on one of three grounds: (1) an intervening change in controlling law; (2) the availability of new evidence; or (3) the need to correct clear error of law or [to] prevent manifest injustice.” *Lazaridis v. Wehmer*, 591 F.3d 666, 669 (3d Cir. 2010).

4. Plaintiff moves for reconsideration on the grounds of alleged “imminent danger of serious physical injury” when the complaint was filed due to his mental health condition. The Complaint names as defendants the Boy Scouts of America and Delaware BSA, LLC, and alleges Plaintiff suffered a 1990 “sexual injury” by a local/troop scout master when Plaintiff was a minor. While Plaintiff suffers from mental disorders, there are no allegations that either Defendant denies him, or provides him, mental health treatment or care at the correctional facility where Plaintiff is housed. Instead, Plaintiff seeks compensatory and punitive damages for acts that allegedly occurred some twenty to thirty years ago.

5. The Court has reviewed the order that denied Plaintiff leave to *proceed in forma pauperis*. There is no error, and Plaintiff has provided no grounds that warrant reconsideration.

IT IS HEREBY ORDERED that:

1. The motion for reconsideration (D.I. 6) is **DENIED**.

2. Plaintiff is given until on or before April 19, 2021 to pay the \$402 filing fee. Plaintiff's failure to timely pay the filing fee will result in dismissal of the case without prejudice.

/s/ Richard G. Andrews
UNITED STATES DISTRICT JUDGE