

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al., §
Plaintiffs, §
§
v. § Case No. 3:23-cv-02875-S-BT
UNITED STATES OF AMERICA, et §
al., §
Defendants. §

ORDER

Pro se Plaintiff Brian Carr has filed a Rule 54(b) Motion to Reconsider (ECF No. 32), asking the Court to reconsider its Order (ECF No. 26) granting Defendants' Rule 56(d) Motion and denying his Motion for Partial Summary Judgment as premature. For the reasons stated below, the Court **DENIES** Carr's Motion.

Background

Carr initiated this civil action on December 29, 2023. *See* Compl. (ECF No. 3). Defendants timely filed a Motion to Dismiss on March 8, 2024, seeking to dismiss the original Complaint for lack of subject matter jurisdiction, failure to state a claim, and failure to identify an applicable waiver of sovereign immunity. *See* Mot. Dismiss (ECF No. 15). On March 28, Carr filed a response to Defendants' Motion to Dismiss, which included a request for leave to amend the Complaint and a "Motion for Partial Summary Judgment." *See* Resp. (ECF No. 18). Defendants then filed a Rule 56(d) Motion, requesting that the Court deny or defer

consideration of the Motion for Partial Summary Judgment. *See* Rule 56(d) Mot. (ECF No. 22). On April 22, the Court entered an Order granting Defendants' Rule 56(d) Motion, denying the Motion for Partial Summary Judgment as premature, denying as moot several motions—including Defendants' Motion to Dismiss—and directing the filing of an Amended Complaint by April 30. *See* Order (ECF No. 26).

Carr filed an Amended Complaint (ECF No. 29), which is the live pleading, on April 23. Defendants filed a Motion to Dismiss the Amended Complaint on May 14. *See* Mot. Dismiss (ECF No. 31). That Motion is pending before the Court.

Also, on May 14, Carr filed a Motion asking the Court to reconsider its April 22 Order, alleging that Defendants' Rule 56(d) Motion lacked a sufficient certificate of conference, Carr did not have time to file a responsive briefing before the Court's ruling, and the factual background in the Court's Order should use a "more accurate summary" of the alleged claims. *See* Rule 54(b) Mot. (ECF No. 32). Defendants timely filed a Response (ECF No. 36), and Carr filed a Reply (ECF No. 42). So, the Motion is ripe for review.

Legal Standards and Analysis

The Federal Rules of Civil Procedure do not formally provide for a motion for reconsideration. *Shepherd v. Int'l Paper Co.*, 372 F.3d 326, 328 n.1 (5th Cir. 2004). A request to reconsider an order other than a final judgment is usually governed by Rule 54(b), as opposed to Rule 59 or Rule 60. *Austin v. Kroger Tex., L.P.*, 864 F.3d 326, 336 (5th Cir. 2017) (citing Fed. R. Civ. P. 54(b)) ("Rule 54(b) allows parties to seek reconsideration of interlocutory orders and authorizes the

district court to ‘revise[] at any time’ ‘any order or other decision . . . [that] does not end the action.’”).

While “the precise standard for evaluating a motion to reconsider under Rule 54(b) is unclear, whether to grant such a motion rests within the discretion of the court.” *Dallas Cnty v. MERSCORP, Inc.*, 2 F. Supp. 3d 938, 950 (N.D. Tex. 2014) (citation omitted), *aff’d sub nom. Harris Cnty v. MERSCORP, Inc.*, 791 F.3d 545 (5th Cir. 2015). And though Rule 54(b) is a “more flexible” standard, *Austin*, 864 F.3d at 336, considerations similar to those under Rules 59 and 60 inform the Court’s analysis of a Rule 54(b) motion, *see MERSCORP, Inc.*, 2 F. Supp. 3d at 950. Thus, whether a motion has a manifest error of law or fact or presents newly discovered evidence are informative “guideposts” in evaluating a Rule 54(b) motion, even though the Court is not strictly limited to that standard. *Patton v. Johnson*, 2020 WL 13504980, at *2 (N.D. Tex. Mar. 9, 2020); *see also Applewhite v. Sawyer*, 2022 WL 16710720, at *1 (N.D. Tex. Oct. 6, 2022) (“In sum, under either Rule 59 or Rule 54, a plaintiff is only entitled to reconsideration if she can demonstrate that the Court has made a manifest error of law or fact or has presented newly discovered evidence.”). “[T]he Court’s broad discretion under Rule 54(b) must be exercised sparingly in order to forestall the perpetual reexamination of orders and the resulting burdens and delays.” *MIECO LLC v. Pioneer Nat. Res. USA, Inc.*, 2023 WL 3259492, at *2 (N.D. Tex. May 4, 2023) (internal quotation marks and citations omitted).

Having reviewed Carr's Motion, the Court finds that reconsideration is not warranted. Even under the "more flexible" Rule 54(b) standard, none of Carr's arguments persuade the Court that its previous Order is in error. And Carr has not established that there are manifest errors of law or fact, nor has he presented newly discovered evidence. *See Jefferson v. Tran*, 2023 WL 11822216, at *2 (N.D. Tex. Oct. 4, 2023) (denying motion for reconsideration because "Defendant's mere disagreement with the findings and conclusions of the Court does not warrant the Court's reconsideration" and he "has cited no new evidence of record or any change in or clarification of the substantive law"); *Baldwin v. Zurich Am. Ins. Co.*, 2019 WL 12336277, at *2 (W.D. Tex. June 26, 2019) (finding that "[n]one of plaintiff's arguments persuade the Court to alter its decision denying her Motion for Partial Summary Judgment" when "no discovery has occurred, so granting [plaintiff] judgment on the merits of her claims is still premature" and plaintiff "offers no new evidence that would convince the Court to reconsider its earlier order").

Conclusion

The Court **DENIES** Carr's Rule 54(b) Motion for Reconsideration.

SO ORDERED.

February 26, 2025.



REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE