IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Regina M. Rodriguez

Civil Action No. 1:24-cv-03390-RMR

JOSHUA ABRAMS,

Plaintiff,

v.

DIVISION OF UNEMPLOYMENT INSURANCE
JOE BARELA
JEFF FITZGERALD
JOHN & JANE DOE(S),

Defendants.

ORDER DENYING MOTION TO AMEND JUDGMENT

The Court previously dismissed this case in an order dated September 2, 2025 ("Order"). ECF No. 50. Plaintiff has now filed several motions: a motion to amend judgment, ECF No. 54, a motion for an emergency injunction, ECF No. 55, a motion for a status conference, ECF No. 58, and a motion for an immediate ruling on his motion to amend. ECF No. 60. For the reasons stated below, Plaintiff's motions are **DENIED**.

I. BACKGROUND

Plaintiff filed this action in December 2024. ECF No. 1. His original complaint included claims brought against the Colorado Division of Unemployment Insurance ("Division") under 42 U.S.C. § 1983, and those claims were barred by the Eleventh Amendment. Plaintiff was ordered by a magistrate judge to amend his complaint to remedy that jurisdictional defect. ECF No. 4 at 2-3. He did so, and it is his amended complaint ("Complaint"), ECF No. 7, which is the operative pleading in this action.

Plaintiff alleged that he had applied for unemployment benefits, and that the Division had miscalculated the benefits to which he was entitled by excluding from consideration income he had earned in North Carolina. ECF No. 7-1 at 5. Plaintiff had tried to correct the Division's alleged miscalculation but had been unsuccessful. *Id.* at 6-9. He thus brought eight claims for relief against the Division and two of its officers, Joe Barela and Jeff Fitzgerald. ECF No. 7 at 5-6. He asked the Court to order the Division to pay him the benefits he believed were owed. ECF No. 7-2 at 27. He also sought additional damages and an order compelling the Division to overhaul its internal procedures. ECF No. 7-2 at 27-29.

In April 2025, Defendants moved to dismiss the Complaint. ECF No. 33. They argued, among other things, that the Court lacked subject-matter jurisdiction over most of Plaintiff's claims, because, as with his original complaint, the Eleventh Amendment barred claims against the Division and its officers in their official capacity. ECF No. 33 at 5-6. In September 2025, the Court granted Defendants' motion. ECF No. 50.

However, at that time, several motions filed by Plaintiff remained outstanding. *See* ECF Nos. 35, 44, 45, and 49. In particular, Plaintiff had asked the Court to appoint counsel under 28 U.S.C. § 1915(e)(1), ECF No. 35 at 4-5, and to allow him to supplement his Complaint. ECF No. 49. The Court denied these motions as moot. ECF No. 50 at 20-21.

Shortly after the Court issued its Order, Plaintiff filed the first of the motions that are presently before the Court: the motion to amend judgment (the “Motion”). ECF No. 54. In the Motion, Plaintiff asked the Court to vacate the Order, reinstate his case, grant him permission to file a second amended complaint (“SAC”), ECF No. 53, grant him an injunction, and order expedited discovery. ECF No. 54 at 10.

II. LEGAL STANDARD

At this stage, the Court can only consider Plaintiff’s request to vacate its earlier ruling. Litigants may not file motions in a closed case without first successfully reopening the case. *See, e.g.*, *Pemberton v. Patton*, 757 F. App’x. 689, 691-92 (10th Cir. 2018). As such, Plaintiff’s additional requests for an injunction and expedited discovery are improper. *Hackborn v. Hansen*, No. 19-CV-02679-DDD-NYW, 2022 WL 540654, at *2 (D. Colo. Feb. 23, 2022) ([T]he Tenth Circuit has indicated that a party may not file motions in a closed case.”)

Under Fed. R. Civ. P. 59(e), courts may alter or amend judgments. A motion under the rule must establish: (1) an intervening change in controlling law, (2) new evidence that was previously unavailable, or (3) a need to correct clear error or prevent manifest injustice. *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). However, “[i]t is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing.” *Id.*

Because Plaintiff proceeds pro se, the Court “review[s] his pleadings and other papers liberally and hold[s] them to a less stringent standard than those drafted by attorneys." *Trackwell v. United States*, 472 F.3d 1242, 1243 (10th Cir. 2007) (citing *Haines v. Kerner*, 404 U.S. 519, 520 (1972)). Nevertheless, a pro se party "must follow the same rules of procedure that govern other litigants." *Green v. Dorrell*, 969 F.2d 915, 917 (10th Cir. 1992); see also *Nielsen v. Price*, 17 F.3d 1276, 1277 (10th Cir. 1994) ("This court has repeatedly insisted that pro se parties follow the same rules of procedure that govern other litigants.").

III. ANALYSIS

The Motion raises six arguments. First, Plaintiff argues that the Court committed an error of law by failing to apply the holding of a recent Supreme Court case, *Williams v. Reed*, 604 U.S. 168 (2025). ECF No. 54 at 2-3. Second, he argues that the Court erred by denying his pending motions as moot without considering their merits. Third, he says that the SAC cures the jurisdictional defects of the Complaint by requesting only prospective relief. Fourth, he also claims the SAC plausibly pleads claims for violations of the ADA and the Fourteenth Amendment, and so the Court should allow those claims to proceed. Fifth, Plaintiff argues that the Court erred in its Order by failing to consider his "supplemental filings," which included additional evidence of his claims. Sixth, he states that the Court erred by dismissing certain claims for relief when he did not make any arguments to defend the claims in response to Defendants' motion to dismiss. The Court will examine each of the arguments raised by Plaintiff and consider whether any states grounds for granting the Motion.

a. The SAC is not properly before the Court.

Initially, the Court will address Plaintiff's third and fourth arguments, all of which contend that the Court should consider the SAC and reinstate his case. The Court previously dismissed all Plaintiff's claims, many of them with prejudice. "[O]nce judgment is entered, the filing of an amended complaint is not permissible until judgment is set aside or vacated pursuant to Fed. R. Civ. P. 59(e) or 60(b)." *The Tool Box, Inc. v. Ogden City Corp.*, 419 F.3d 1084, 1087 (10th Cir. 2005); *see also Spinelli v. Coherus Biosciences, Inc.*, 167 F.4th 1274, 1286 (10th Cir. 2026) (no reason to consider a request for leave to amend where court denies motion to amend judgment). The filing of the SAC does not constitute new evidence or an error of law or fact that would merit reconsideration of the Court's Order. For this reason alone, the Court would decline to consider the SAC.

However, review of the SAC shows that Plaintiff has not remedied the errors in his Complaint. Despite claiming that the SAC seeks only prospective relief, Plaintiff still requests "compensatory economic damages." ECF No. 53 at 1. Thus, his claims remain barred by the Eleventh Amendment. *See* ECF No. 50 at 12-13 (dismissing Plaintiff's earlier claims that sought monetary relief). Furthermore, although Plaintiff renews his request for an order compelling the Division to overhaul its procedures, his chief request is for an order "requiring Defendants, in their official capacities, to…[r]eprocess Plaintiff's 2023 claim to correct the North Carolina wage exclusion." ECF No. 53 at 14. Because this request would require "the payment of funds from the state treasury," *Edelman v.*

Jordan, 415 U.S. 651, 677 (1974), it too is barred by the Eleventh Amendment. The Court has reviewed the other allegations in the SAC and once again, "despite all of Plaintiff's verbiage and attempted artful pleading," he has not stated any plausible claims for relief. *See* ECF No. 50 at 18. His allegations contain the same facts as the Complaint, only reframed in an attempt to circumvent the Court's Order. "A busy district court need not allow itself to be imposed upon by the presentation of theories seriatim." *Pallottino v. City of Rio Rancho*, 31 F.3d 1023, 1027 (10th Cir. 1994) (quoting *Freeman v. Continental Gin Co.,* 381 F.2d 459, 469–70 (5th Cir. 1967)).

b. The holding of *Williams* does not apply to this case.

Plaintiff argues that the Court's Order was clearly erroneous because it "misapprehends controlling law." ECF No. 54 at 4. Specifically, the Court held that it did not have jurisdiction to review the denial of Plaintiff's application for unemployment benefits because Plaintiff had not exhausted his administrative remedies by appealing that denial to the Colorado Court of Appeals. ECF No. 50 at 9-10. Plaintiff contends that this was erroneous. He cites the case *Williams v. Reed*, in which the Supreme Court held that an administrative-exhaustion statute in Alabama was preempted by 42 U.S.C. § 1983. 604 U.S. 168, 179 (2025).

However, as Defendants note, the Supreme Court issued its decision in *Williams* in February of 2025. Defendants did not file their motion to dismiss Plaintiff's complaint, ECF No. 33, until April of that year. Plaintiff did not submit a response until May. ECF No. 36. He also filed a supplemental response in July 2025. ECF No. 48. Nothing prevented Plaintiff from making his current arguments before the Court issued its order. Plaintiff states that he was "unaware" of the decision while drafting his response to Defendants' motion to dismiss. ECF No. 57 at 5.

But a motion under Fed. R. Civ. P. 59(e) is an "inappropriate vehicle[] to reargue an issue previously addressed by the court when the motion merely advances new arguments…which were available at the time of the original motion. Absent extraordinary circumstances…the basis for the second motion must not have been available at the time the first motion was filed." *Servants of Paraclete*, 204 F.3d at 1012.

Even if the Court were to revisit its previous decision, the *Williams* decision does not apply here. In that case, a group of unemployed workers applied for unemployment benefits from the Alabama Department of Labor. 604 U.S. at 170. After significant delays, they sued in state court under 42 U.S.C. § 1983, arguing that the department had unlawfully delayed the processing of their claims. *Id.* Ultimately, the Alabama Supreme Court affirmed the dismissal of their claims on the grounds that the plaintiffs had failed to exhaust their administrative remedies pursuant to state law. *Id.* The Supreme Court found that § 1983 preempted the state's exhaustion statute because it prevented the plaintiffs from challenging delays in the administrative exhaustion process. *Id.* at 175-76. That holding does not apply here. Plaintiff's failure to exhaust administrative remedies played no role in the Court's dismissal of his § 1983 claims, which were dismissed on other grounds. *See* ECF No. 50 at 11-16. Only Plaintiff's claim for judicial review of the denial of unemployment benefits was dismissed for failure to exhaust administrative remedies. *Id.* at 10.

Plaintiff also argues that the *Williams* decision establishes that the Court should not have abstained under the *Younger* doctrine from hearing his request for an injunction ordering Defendants to revise their procedures for processing claims. *See* ECF No. 54 at 3-4. He argues that abstention is “narrowly confined to exceptional circumstances, none present here.” *Id.* at 3. Because *Williams* “established” that state administrative procedures could be illusory, the Court should not have abstained from interfering with the Division’s “illusory” processing of his claim. As stated above, the *Williams* decision does not apply here. The Supreme Court did not consider *Younger* abstention.

c. The Court properly denied Plaintiff’s pending motions as moot.

Next, Plaintiff argues that the Court erred by denying as moot his pending motions when it dismissed the case. ECF No. 54 at 4-5. In particular, he addresses his motion for leave to file a supplemental pleading, ECF No. 49, and his motion for the appointment of counsel, ECF No. 35.

i. Motion for Leave to Supplement Complaint

Plaintiff argues that the Court erred in denying his motion to file a supplemental pleading because the supplemental pleading “cured identified defects by: (1) clarifying prospective relief under Ex parte Young; (2) detailing ADA/§504 violations with deliberate-indifference evidence; and (3) exposing systemic notice failures, misrouted appeals, and retaliatory ‘integrity’ holds.” ECF No. 54 at 5. In fact, the proposed supplemental pleading added three claims for relief. The first was a claim under title II of the Americans with Disabilities Act ("ADA"). ECF No. 49-1 at 5. The second was a claim alleging that the Division had violated the Racketeer Influenced and Corrupt Organizations Act ("RICO"). *Id.* at 6. The third was a violation of the Colorado Consumer Protection Act ("CCPA"). *Id.* at 7. Plaintiff believes the Court should have considered the merits of his request.

Fed. R. Civ. P. 15(d) allows a plaintiff to request leave to file a supplemental pleading that sets out events that occurred after the date of the original pleading. Determination of these requests is "addressed to the sound discretion of the trial court." *Walker v. United Postal Service*, 240 F.3d 1268, 1279 (10th Cir. 2001) (quoting *Gillihan v. Shillinger*, 872 F.2d 935, 941 (10th Cir. 1989)). Like motions to amend, motions to supplement "should be liberally granted unless good reason exists for denying leave." *Id.* (quoting *Gillihan*, 872 F.2d at 941). One such reason is when a proposed supplemental pleading would be "futile." *See Southwest Nurseries, LLC v. Florists Mut. Ins., Inc.*, 266 F. Supp. 2d 1253, 1256 (D. Colo. 2003). A proposed pleading is futile when it would be subject to dismissal for any reason. *Watson ex rel. Watson v. Beckel*, 242 F.3d 1237, 1239-40 (10th Cir. 2001) (defining "futile" for proposed amended pleadings); *Moulton v. West*, No. 11-cv-03119, 2012 WL 2153429, at *1 (D. Colo. June 12, 2012) (applying that analysis to a supplemental pleading).

Here, Plaintiff's supplemental pleading was futile because each claim it raised was still subject to dismissal.

As for his ADA claim, in his Complaint, Plaintiff alleged that the Division's "failure to implement an accessible, reliable remote communication system…directly contravenes ADA requirements. ECF No. 7-2 at 17; *see also* ECF No. 7 at 5. The Court noted that these allegations were insufficient to establish a claim under the ADA, because Plaintiff had not actually been denied any unemployment benefits on account of a disability. ECF No. 50 at 18. Plaintiff's supplemental pleading was futile because it did not allege any facts that would change the analysis of the Court's order. Plaintiff's supplemental claims did nothing more than reiterate the claims in his Complaint. Plaintiff alleged that the Division operated on a single telephone line and had not implemented a "reliable electronic channel." ECF No. 49-1 at 5. He added no allegations that would show he had been denied either benefits or reasonable accommodations based on a disability. Thus Plaintiff failed to state a claim for relief under the ADA.

Plaintiff's supplemental pleading also brought a RICO claim against the Division. As the Division notes, this claim was barred for the same reason that Plaintiff's § 1983 claims were barred: Eleventh Amendment sovereign immunity. *See Bernard v. Vermont*, 23-CV-00241, 2024 WL 760005, at *2 (D. Colo. Feb. 2, 2024), *report and recommendation adopted,* 2024 WL 760002 (D. Colo. Feb. 16, 2024).

Plaintiff last sought to add a claim for a CCPA violation. "The CCPA is a remedial statute intended to deter and punish deceptive trade practices committed by businesses in dealing with the public." *Loughridge v. Goodyear Tire and Rubber Co.*, 192 F. Supp. 2d 1175, 1185 (D. Colo. 2002). The Division is not a business, nor do any of Plaintiff's allegations establish a "deceptive trade practice" under the CCPA. *See* C.R.S. § 6-1-105. Plaintiff alleges that the Division "misrepresent[ed] his bank account's incompatibility with direct deposit and coerc[ed] ReliaCard enrollment without disclosing viable alternatives." ECF No. 49-1 at 7. That allegation does not align with any "deceptive trade practice" defined in the CCPA. Moreover, Plaintiff's own allegations in the supplemental pleading show that the Division did disclose viable alternatives. Plaintiff alleged that "Representative Ed" at the Division stated that Plaintiff could use "a different banking institution *or* the U.S. Bank ReliaCard." ECF No. 49-1 at 2 (emphasis added). Thus, Plaintiff's claim fails on its own terms.

In sum, each of the claims included in the supplemental pleading were subject to dismissal and thus allowing the pleading would have been futile. As a result, the Court did not err in denying Plaintiff's motion to supplement as moot.

ii. Motion to Appoint Counsel

Plaintiff next argues that the Court should have considered his motion to appoint counsel before dismissing his claims. But Plaintiff had no need of counsel in this action because the Court had determined that his claims were to be dismissed. In addition, the Court dismissed claims on jurisdictional grounds—court-appointed counsel could not have overcome the Court's previous ruling. Thus, there was no need to consider whether to appoint counsel, and the motion was moot.

d. The Court did not "ignore" any evidence.

Next, Plaintiff argues that the Court "ignored" certain evidence. ECF No. 54 at 8. Specifically, he points to his supplemental filings, which included evidence of "(1) proof of excluded out-of-state wages without basis; (2) misrouted or canceled appeals, including a March 24, 2023 cancellation; (3) a recorded March 15, 2025 call and transcript evidencing coercive ReliaCard steering and false "incompatible bank" claims contingent [sic] processing his claim unless he accepts; and (4) multiple public reports and audit-confirmed systemic mismanagement." *Id.*

However, as the Court has already stated, Plaintiff's supplemental filings failed to state any claims for relief. Thus, the evidence described by Plaintiff did not constitute an error that would require the Court to reinstate Plaintiff's case.

e. Plaintiff's abandoned claims were deficient.

Finally, Plaintiff argues that the Court erred by dismissing Claims 4-8 in his complaint. ECF No. 54 at 9-10. He argues that it was improper to deem those claims "abandoned" merely because he did not respond to Defendants' motion to dismiss. *Id.* Plaintiff misunderstands the Court's Order.

In their motion to dismiss, Defendants made concrete arguments showing why Claims 4-8 were deficient and should be dismissed. Claims 4 and 5 were based on violations of the Ninth and Tenth Amendments, neither of which create a private cause of action. *See* ECF No. 33 at 15 (citing *Holmes v. Town of Silver City*, 826 F. App'x 678, 681 (10th Cir. 2020) and *Strandberg v. City of Helena*, 791 F.2d 744, 748-49 (9th Cir. 1986)).

Similarly, Claims 6 and 7 were claims for negligence and intentional/negligent infliction of emotional distress. ECF No. 7 at 6. Defendants argued that they were immune from state law tort claims under the Colorado Governmental Immunity Act, ECF No. 33 at 11, and Plaintiff did not dispute that argument. Finally, Claim 8 attempted to allege a violation of the Colorado Administrative Procedures Act, a statute that also does not create a private cause of action. *Id.* at 15 (citing *Romer v. Bd. of Cnty. Comm'rs of Cnty. of Pueblo*, 956 P.2d 566, 576 (Colo. 1998)).

Plaintiff did not respond to these arguments, but it was not that failure which made his claims deficient. The Court merely did not discuss his claims in detail because he had not raised any arguments in their defense. Even in the Motion, Plaintiff does not actually raise any arguments that would provide the Court with some basis to find that Claims 4-8 stated valid claims for relief.

IV. CONCLUSION

The Court finds that Plaintiff has failed to establish any grounds for the Court to vacate its previous Order, ECF No. 50, under Fed. R. Civ. P. 59(e). Thus, this matter is to remain closed, and Plaintiff's Motion to Amend Judgment, ECF No. 54, is **DENIED**. Because this case is closed, Plaintiff's other motions, ECF Nos. 55, 58, and 60, are **DENIED AS MOOT**.

DATED: September 21, 2026

BY THE COURT:

REGINA M. RODRIGUEZ
United States District Judge