





(28) day time limit. Therefore, her motion shall be analyzed as a motion to reconsider under Rule 59(e) of the Federal Rules of Civil Procedure.

Motions under Rule 59 are not to be made lightly. See Pac. Ins. Co. v. American Nat'l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir.1998) (internal quotations omitted) (“In general, reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.”). Rule 59(e) allows a court to grant a motion for reconsideration in three instances: “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or to prevent manifest injustice.” Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Plaintiff does not allege a change in controlling law. It does appear that plaintiff attached five (5) pages of medical records perhaps suggesting that new evidence not considered previously by the court exists. Additionally, plaintiff argues that there is a “conflict of what constitutes a compensable disability,” a possible allusion to a clear error of law or manifest injustice. Having reviewed the pleadings, the court concludes that plaintiff’s additional evidence is duplicative and cumulative, and the limited argument presented in the motion does not demonstrate that a clear error of law has occurred or that reversal is necessary to prevent manifest injustice.

In adopting the Magistrate Judge’s report and recommendation, the court held that it lacked subject matter jurisdiction over this case because plaintiff failed to exhaust her administrative remedies. In her complaint, plaintiff claims that defendant Marshalls discriminated against her in July 2004. She did not file any claims with the Equal Employment Opportunity Commission (“EEOC”) until 2006, well beyond the 300 day filing period. In her motion for reconsideration, plaintiff included five (5) pages of medical records. Nothing in these records, however, suggests that plaintiff timely filed a claim for the alleged July 2004



discrimination with the EEOC. The records merely indicate that plaintiff suffers from a myriad of ailments for which she was ultimately awarded Social Security disability benefits in August 2011. Ultimately, plaintiff's motion seeks only to rehash issues that this court has already heard and decided. Therefore, there is no basis to provide plaintiff with relief from final judgment in this case pursuant to Rule 59(e).

Accordingly, it is **ORDERED** that plaintiff's Motion for Reconsideration, (Dkt. No. 38), shall be **DENIED** for the reasons set forth above.

Entered: December 18, 2012

*/s/ Michael F. Urbanski*

Michael F. Urbanski  
United States District Judge

