

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

JAMES RENWICK MANSHIP,  
Plaintiff,

v. Civil Action No. 3:16-cv-00884-JAG

VIRGINIA BOARD OF ELECTIONS, et al,

Defendants.

**ORDER**

This matter comes before the Court on the plaintiff's motion for reconsideration. (Dk. No. 7.) On November 3, 2016, the Court dismissed with prejudice the pro se plaintiff's motion for an injunction barring the Virginia Board of Elections from using electronic methods of casting and tabulating votes in the 2016 general election. The plaintiff filed a motion for reconsideration on November 17, 2016, asking the Court to grant the requested injunction before Virginia's June 2017 primary elections. The plaintiff still fails to state a claim or establish standing, and the Court DENIES the motion.

Federal Rule of Civil Procedure 59(e) permits a party to make a motion to alter or amend a judgment within twenty-eight days of entry of the judgment. Courts can grant such motions to (1) accommodate a change in controlling law; (2) account for new evidence; or (3) correct a clear error of law or prevent manifest injustice. *Zinkand v. Brown*, 478 F.3d 634, 637 (4th Cir. 2007). Rule 59(e) is not a vehicle for a petitioner merely to relitigate previously decided issues. *Delong v. Taylor*, 790 F. Supp. 594, 618 (E.D. Va. 1991) (quoting *Durkin v. Taylor*, 444 F. Supp. 879, 888 (E.D. Va. 1977)).

The plaintiff's motion does not meet any of the three possible rationales under *Zinkand*. First, the plaintiff does not assert any change in existing law. Second, the plaintiff fails to

present sufficient new evidence to give rise to a federal cause of action. The plaintiff cites a post-election news article suggesting computerized voting systems are vulnerable to attack in the next general election. Even considered in conjunction with the plaintiff's prior evidence, this new article does not support injunctive relief by a federal court into Virginia's election system. As stated in the Court's initial Opinion dated November 3, the states are "primarily responsible for their own elections." *Hutchinson v. Miller*, 797 F.2d 1279, 1283 (4th Cir. 1986) (citing *Welch v. McKenzie*, 765 F.2d 1131, 1317 (5th Cir. 1985)). The new evidence simply discusses the possibility of fraud in the future and does not suggest that such fraud is probable or imminent. Merely citing articles or blogs suggesting there may be a potential for election hacking in the future does not give rise to a federal cause of action today. *City of Los Angeles v. Lyons*, 461 U.S. 95, 103 (1983). The plaintiff fails to show why the Court must grant injunctive relief based on this evidence.

Lastly, the Court did not commit a clear error of law, nor does the Court need to act to prevent a manifest injustice. First, the Court did not make a clear error of law. Second, the plaintiff does not indicate that injustice will result absent Court action. To the contrary, the plaintiff acknowledges that "Virginia has made progress since the election of 2012" by replacing touch screen voting machines with devices that scan paper ballots to count votes, which leaves the paper ballots available for a recount if necessary. (Dk. No. 7, ¶ 2). Even if some risk remains that Virginia's voting machines may be hacked in the future, the plaintiff's concession alleviates that concern with a method of hand-counting ballots if needed. The concession also shows that Virginia has been open to making changes in the past to address security issues and ensure proper vote counting. Given Virginia's prior voting system reforms, the plaintiff fails to


show why the state cannot address his concerns absent Court action. Accordingly, the plaintiff fails to show that a manifest injustice will result if the Court does not act.

Should the plaintiff wish to appeal this Order, he must file written notice of appeal with the Clerk of Court within thirty (30) days of the date of entry hereof. Failure to file a notice of appeal within that period may result in the loss of the right to appeal.

It is so ORDERED.

Let the Clerk send a copy of this Order to the pro se plaintiff via U.S. Mail.

Date: April 20, 2017  
Richmond, VA

  
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John A. Gibney, Jr.  
United States District Judge