

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Archie Fool Bear, )  
)  
Plaintiff, )  
)  
vs. )  
)  
Standing Rock Sioux Tribe, Tribal Council; )  
Standing Rock Sioux Tribe, Tribal Council )  
Election Commission; Dave Archambault, )  
II, Chairman of Standing Rock Sioux Tribe, )  
Tribal Council; and Linda Comeau, Chair, )  
Standing Rock Sioux Tribe, Tribal Council )  
Election Commission, )  
)  
Defendants. )

**ORDER DENYING PLAINTIFF’S  
MOTION FOR RECONSIDERATION**

Case No.: 1:17-cv-146

Before the Court is the Plaintiff’s “Motion for Reconsideration of Order Denying Motion for Temporary Restraining Order and Emergency Request to Grant Temporary Restraining Order” filed on July 18, 2017. See Docket No. 6. The Plaintiff requests the Court reconsider its order dated July 18, 2017 (Docket No. 5), denying the Plaintiff’s motion for a temporary restraining order, and requests the Court issue a temporary restraining order to enjoin the Defendants from conducting the tribal primary election that is scheduled for tomorrow, July 19, 2017.

On July 14, 2017, the Plaintiff filed a complaint, asserting claims of declaratory and injunctive relief, and a motion for temporary restraining order/preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure. See Docket Nos. 1 and 3. On July 18, 2017, the Court denied the Plaintiff’s motion for a temporary restraining order. See Docket No. 5.

The Federal Rules of Civil Procedure do not contemplate motions for reconsideration. Broadway v. Norris, 193 F.3d 987, 989 (8th Cir. 1999); see also Schoffstall v. Henderson, 223 F.3d 818, 827 (8th Cir. 2000). When such a motion is directed at a non-final order it should be construed as a Rule 60(b) motion. Broadway, 193 F.3d at 989. Rule 60(b) provides for “extraordinary relief which may be granted

only upon an adequate showing of exceptional circumstances.” United States v. Young, 806 F.2d 805, 806 (8th Cir. 1986). A district court has “wide discretion” in ruling on a Rule 60(b) motion. Sellers v. Mineta, 350 F.3d 706, 716 (8th Cir. 2003). Rule 60(b) “authorizes relief based on certain enumerated circumstances (for example, fraud, changed conditions, and the like).” Broadway, 193 F.3d at 990. Rule 60(b) is not a vehicle for reargument on the merits. Id.

The Court reiterates that a temporary restraining order is an extraordinary remedy. See Zidon v. Pickrell, 338 F.Supp.2d 1093, 1094-95 (D.N.D. 2004). The Court has carefully reviewed the entire record and relevant case law. The Plaintiff’s motion for reconsideration argues the Plaintiff has exhausted his tribal remedies, and his only forum for recourse is for this Court to enter a temporary restraining order. However, the Court notes that the section of the Standing Rock Sioux Tribal Code of Justice which the Plaintiff cites in support of his argument states, “No temporary restraining order or other injunction without notice shall be granted where the Tribe is a defendant or a tribal official is a defendant in his official capacity.” Docket No. 6-1, p. 2 (emphasis added). This section does not prevent the Plaintiff from seeking a temporary restraining order with notice.<sup>1</sup> In the exercise of its broad discretion, the Court finds that the Plaintiff’s motion for reconsideration (Docket No. 6) is **DENIED**.

**IT IS SO ORDERED.**

Dated this 18th day of July, 2017.

/s/ Daniel L. Hovland  
Daniel L. Hovland, Chief Judge  
United States District Court

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<sup>1</sup> The Plaintiff has also failed to address the effect of the United States Supreme Court case, *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978), which the Court noted in its initial order dated July 18, 2017. See Docket No. 5, pp. 4-5.