

## It Pays to Know the Rules

- [inShare0](#)

In 2014, Antonio Johnson filed a claim in the U.S. Court of Federal Claims, seeking recovery of military disability retirement benefits. Johnson and the United States cross-moved for judgment on the administrative record, and ultimately the Court ruled for the Government, dismissing Johnson's lawsuit with prejudice. Final judgment was entered on March 10, 2016.

On May 5, 2016, Johnson moved for reconsideration as a pro se plaintiff. Under Rule 59, the court has the discretion to reconsider its ruling. But in deciding whether to exercise that discretion, courts look to whether there has been "a manifest error of law, or mistake of fact, and it is not intended to give an unhappy litigant an additional chance to sway the court." The moving party also must show there was an intervening change in controlling law, or evidence not previously available, or that reconsideration is necessary to prevent manifest injustice.

In addition, the motion for reconsideration must be timely. Here, Johnson should have filed his motion within 28 days of the court's final judgment, or by April 7, 2017. Johnson filed his motion about a month after the deadline for filing expired. Therefore, the Court held that Johnson's motion was untimely. The Court further stated that even had the motion been timely, it considered the motion to lack merit, stating that Johnson met none of the factors supporting reconsideration under Rule 59.

But the Court offered Johnson one option—he could move for relief from the final judgment entered against him under Rule 60(b), "so long as it is filed within a reasonable time." The Court further cautioned that because Johnson "has an appeal pending before the [Federal Circuit]," he "should promptly file his Rule 60(b) motion."

Read Judge Bush's full decision [here](#).