

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:

In Proceedings
Under Chapter 11

ILLINOIS HOTEL GROUP, INC.,

Debtor(s).

Case No. 01-41173

OPINION

This matter is before the Court on the motion of objector, Herman Hood, to reconsider the Court's order of February 22, 2002, in which the Court overruled Herman Hood's objection to the debtor's proposed sale of property. In his motion, Herman Hood takes issue with the Court's findings and conclusions set forth in its February 22, 2002, order and urges the Court to revise its ruling to limit the property subject to sale by the debtor.

Rule 59(e), which governs motions for reconsideration, provides that "any motion to alter or amend a judgment shall be filed no later than 10 days after entry of judgment." See Fed. R. Civ. P. 59(e).¹ In this case, Herman Hood's motion was filed on March 13, 2002, more than 10 days after the Court's ruling on February 22, 2002. Under Rule 9006(b) (2), the time limit set

¹Rule 59(e) is made applicable to bankruptcy proceedings by Rule 9023 of the Federal Rules of Bankruptcy Procedure. See Fed. R. Bankr. P. 9023.

forth in Rule 59(e) may not be enlarged by the Court.²
Accordingly,

Herman Hood's motion to reconsider is untimely, and the Court is without jurisdiction to reconsider its ruling pursuant to Rule 59(e).

Because Herman Hood's motion was filed more than 10 days after the Court's ruling, the Court may only grant relief upon the grounds stated in Rule 60(b).³ Rule 60(b) states in pertinent part:

On motion and upon such terms as are just, the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons; (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence . . . ; (3) fraud . . . ; (4) the judgment is void; (5) the judgment has been satisfied . . . ; (6) any other reason justifying relief from the operation of the judgment.

Fed. R. Civ. P. 60(b).

It is not a "reason justifying relief" that the movant disagrees with the Court's ruling concerning the issues in the

²Bankruptcy Rule 9006(b)(2) provides that "[t]he court may not enlarge the time for taking action under [Rule]. . . 9023(Fed. R. Bankr. P. 9006(b)(2)).

³Rule 60(b) of the Federal Rules of Civil Procedure is made applicable to bankruptcy proceedings under Bankruptcy Rule 9024. See Fed. R. Bankr. P. 9024.

case. See Joyner v. Ensco Offshore Co., 2001 WL 428384 (E.D. La. 2001); Milner Hotels, Inc. v. Interstate BJ, Ltd., 1995 WL 420037 (E.D. Pa. 1995). Motions for reconsideration should not be used to "rehash" the same arguments and facts previously presented to the court. Milner, at *1. Moreover, a motion under Rule 60(b) is not a vehicle to circumvent the ordinary method of redressing Judicial error through appeal. Id. Rather, Rule 60(b) is a remedial provision intended to prevent injustice by allowing parties their day in court even though some technical error has occurred which would otherwise be grounds for a default or dismissal. Id.

In this case, Herman Hood's motion fails to allege any matter that would justify setting aside the Court's order under Rule 60(b). Movant has not produced any newly discovered evidence nor has he satisfied any of the other bases for relief under Rule 60(b).⁴ The motion merely takes issue with the Court's interpretation of the law and facts before it. For the reasons stated, the Court finds no basis for granting the relief requested and, accordingly, denies Herman Hood's motion to

⁴Herman Hood previously sought an extension of time to file a motion for reconsideration and appeal, alleging that he had been on a family vacation for three weeks and was not aware that he had only 10 days to file an appeal. (See Herman Hood's Mot. for Add'l. Time to File Mot. For Reconsid., filed March 12, 2002.) The Court, finding that the motion failed to set forth grounds amounting to "excusable neglect," denied this motion as untimely. See Fed. R. Bankr. P. 8002.

reconsider its order of February 22, 2002.

SEE WRITTEN ORDER.

ENTERED: **MARCH 25 2002**

/s/ KENNETH J. MEYERS
UNITED STATES BANKRUPTCY JUDGE