

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

July 10, 2023

Christopher M. Wolpert
Clerk of Court

GANIYU AYINLA JAIYEOLA,

Plaintiff - Appellant,

v.

GARMIN INTERNATIONAL, INC.,

Defendant - Appellee.

No. 22-3245
(D.C. No. 2:20-CV-02068-EFM-ADM)
(D. Kan.)

ORDER AND JUDGMENT*

Before **HARTZ**, **TYMKOVICH**, and **MATHESON**, Circuit Judges.

Ganiyu Jaiyeola, proceeding pro se,¹ appeals two district court orders. The first is an order denying his motion to reconsider its denial of an earlier motion to reconsider its denial of a motion under Fed. R. Civ. P. 60(b)(4). The second is an

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

¹ Because Mr. Jaiyeola proceeds pro se, we construe his arguments liberally, but we “cannot take on the responsibility of serving as [his] attorney in constructing arguments and searching the record.” *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005).

order imposing filing restrictions on him.² We have jurisdiction under 28 U.S.C. § 1291 and affirm both orders.

Mr. Jaiyeola sued Garmin in February 2020, alleging it discriminated against him in violation of several federal statutes when it failed to hire him. The district court, however, ultimately dismissed Mr. Jaiyeola's suit as a sanction for his abusive litigation conduct. This court affirmed the dismissal. *See Jaiyeola v. Garmin Int'l, Inc.*, Nos. 21-3114, 21-3169, 2022 WL 1218642, at *1 (10th Cir. Apr. 26, 2022). Mr. Jaiyeola filed a petition for panel and en banc rehearing, which this court denied. After the dismissal and this court's affirmance of the same, Mr. Jaiyeola filed a motion for relief under Fed. R. Civ. P. 60(b)(4) in which he argued the judgment against him was "void." *See R. vol. 4 at 27.*

The district court denied that motion. Mr. Jaiyeola filed a motion to reconsider that denial, which the district court also denied. Mr. Jaiyeola then filed a motion to reconsider the denial of his motion for reconsideration. The district court denied that motion and also imposed filing restrictions on Mr. Jaiyeola. Mr. Jaiyeola appeals the denial of his second motion for reconsideration and the imposition of filing restrictions.

² Mr. Jaiyeola did not discuss the filing restrictions order in his originally filed Notice of Appeal, but he later requested that this court construe a response he filed to a show-cause order as a notice of appeal of the filing restrictions order. Because we construe pro se pleadings liberally, *see Garrett*, 425 F.3d at 840, and given the Supreme Court's instruction that "[i]f a document filed within the time specified by [Fed. R. App. P.] 4 gives the notice required by [Fed. R. App. P.] 3, it is effective as a notice of appeal," *Smith v. Barry*, 502 U.S. 244, 248–49 (1992), we grant Mr. Jaiyeola's request and consider his appeal of both orders.

Because Mr. Jaiyeola filed his second motion for reconsideration within twenty-eight days of the district court’s denial of his first motion for reconsideration, we construe it as a motion under Fed. R. Civ. P. 59(e). *See Ysais v. Richardson*, 603 F.3d 1175, 1178 & n.3 (10th Cir. 2010). “We review a district court’s denial of a Fed. R. Civ. P. 59(e) motion for reconsideration under an abuse of discretion standard.” *Barber ex rel. Barber v. Colo. Dep’t of Revenue*, 562 F.3d 1222, 1228 (10th Cir. 2009). “Federal courts have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions under appropriate circumstances,” *Ysais*, 603 F.3d at 1180, and “[w]e review a court’s imposition of sanctions under its inherent power for abuse of discretion.” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 55 (1991). “Under the abuse-of-discretion standard, a trial court’s decision will not be disturbed unless the appellate court has a definite and firm conviction that the lower court made a clear error of judgment or exceeded the bounds of permissible choice in the circumstances.” *Oklahoma ex rel. Edmondson v. Tyson Foods, Inc.*, 619 F.3d 1223, 1232 (10th Cir. 2010) (internal quotation marks omitted).

Mr. Jaiyeola falls well short of demonstrating an abuse of discretion in connection with either the order denying his second motion for reconsideration or the order imposing filing restrictions. He expresses disagreement with myriad prior rulings not before this court, but “a motion for reconsideration . . . is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing.” *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012

(10th Cir. 2000). He argues it was unfair for the district court to impose filing restrictions on him even though it had declined to do so at an earlier point in the proceedings, but the court made its initial decision not to impose restrictions “without prejudice to consideration at a later date.” R. vol. 4 at 89. In any event, Mr. Jaiyeola’s failure to heed the court’s earlier warnings supports, rather than detracts from, the imposition of filing restrictions. *See Ysais*, 603 F.3d at 1180 (“Injunctions restricting further filing are appropriate where (1) the litigant’s lengthy and abusive history is set forth; (2) the court provides guidelines as to what the litigant must do to obtain permission to file an action; and (3) the litigant received notice and an opportunity to oppose the court’s order before it is instituted.” (internal quotation marks omitted)).

We affirm the judgment of the district court.

Entered for the Court

Timothy M. Tymkovich
Circuit Judge