

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DAVID C. JURICIC,
Plaintiff,

vs.

MARK L. SHURTLEFF, et al.,
Defendants.

MEMORANDUM DECISION AND
ORDER DENYING PLAINTIFF'S
MOTION TO SET ASIDE AND
CHARGE OF JUDICIAL
MISCONDUCT

Case No. 2:10-CV-662 TS

This matter is before the Court on Plaintiff's Motion to Set Aside, and Charge of Judicial Misconduct.¹ The Court notes that Plaintiff may have intended to file the Motion in the Third District Court for the State of Utah, but as the Motion was filed with this Court, the Court will rule on it. Defendants have not filed a response to the Motion and the time for filing such a response has passed.

The Court interprets the Motion as seeking relief under Rule 60(b) of the Federal Rules of Civil Procedure. The potentially applicable provisions of Rule 60(b) are subsections (1),

¹Docket No. 16.


allowing relief due to mistake, and (6), allowing relief for “any other reason that justifies relief.” “Rule 60(b)(1) motions premised upon mistake are intended to provide relief to a party in only two instances: (1) when ‘a party has made an excusable litigation mistake or an attorney in the litigation has acted without authority; or (2) whe[n] the judge has made a substantive mistake of law or fact in the final judgment or order.’”² “Relief under Rule 60(b)(6) is appropriate when circumstances are so ‘unusual or compelling’ that extraordinary relief is warranted, or when it ‘offends justice’ to deny such relief.”³

Nothing in Plaintiff’s Motion leads the Court to find a substantive mistake of law or other unusual or compelling circumstances. In its prior Order the Court simply stated that it lacked jurisdiction to review a state district court decision. Consequently, it is

ORDERED that Plaintiff’s Motion to Set Aside, and Charge of Judicial Misconduct (Docket No. 16) is DENIED.

DATED April 28, 2011.

BY THE COURT:



TED STEWART
United States District Judge

²*Utah ex rel. Div. of Forestry, Fire & State Lands v. United States*, 528 F.3d 712, 722-23 (10th Cir. 2008) (quoting *Cashner v. Freedom Stores, Inc.*, 98 F.3d 572, 576 (10th Cir. 1996)).

³*Cashner v. Freedom Stores, Inc.*, 98 F.3d 572, 580 (10th Cir. 1996) (quoting *Pelican Prod. Corp. v. Marino*, 893 F.2d 1143, 1147 (10th Cir. 1990)).