

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6105

JOSEPH WALTER NOBREGA,

Petitioner - Appellant,

v.

GEORGE M. HINKLE, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (1:08-cv-00381-LO-JFA)

Submitted: May 30, 2014

Decided: June 24, 2014

Before MOTZ, SHEDD, and DUNCAN, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Joseph Nobrega, Appellant Pro Se. Eugene Paul Murphy, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joseph Nobrega appeals the district court's order denying for lack of jurisdiction his Federal Rule of Civil Procedure 60(b) motion. We vacate the court's order and remand for further consideration of the motion.

Pursuant to Rule 60(b), the district court may, upon motion, grant a party relief from a final judgment for certain reasons, including: "(1) mistake, inadvertence, surprise, or excusable neglect; . . . (3) fraud . . . , misrepresentation, or misconduct by an opposing party; (4) the judgment is void; . . . or (6) any other reason that justifies relief." Fed. R. Civ. P. 60(b). It is well settled that a district court may, without leave from the appellate court, entertain a Rule 60(b) motion that was filed within a reasonable amount of time after the district court entered its judgment, even if the appellate court has already decided the appeal of that judgment. Std. Oil Co. v. United States, 429 U.S. 17, 17-19 (1976) (per curiam). Thus, the district court reversibly erred when it refused to consider Nobrega's Rule 60(b) motion on the ground that this court had already considered Nobrega's appeal of the underlying judgment. See United States v. Winestock, 340 F.3d 200, 204 (4th Cir. 2003) ("District court decisions granting or denying Rule 60(b) relief are reviewed for abuse of discretion, although the exercise of discretion cannot be permitted to stand if we

find it rests upon an error of law.") (internal quotation marks omitted).

Accordingly, we grant leave to proceed in forma pauperis, grant a certificate of appealability, vacate the district court's order, and remand for further consideration of the Rule 60(b) motion. See Std. Oil, 429 U.S. at 19 (stating that "the trial court is in a much better position to pass upon the issues presented in a motion pursuant to Rule 60(b)" (internal quotation marks omitted)). We express no opinion as to the possible merits of Nobrega's Rule 60(b) motion. We deny Nobrega's motion to compel the production of documents. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

VACATED AND REMANDED