

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 09-2833

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Christopher Lee Prosser,

Appellant,

v.

Laurain C. Hendricks, Doctor, M.D.;  
Elisabeth Conley, D.O.; Correctional  
Medical Services, Inc.; Larry Crawford;  
Al Luebbers; Govinarajulu  
Nagaldinne, M.D., Doctor,

Appellees.

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\* Appeal from the United States  
\* District Court for the  
\* Eastern District of Missouri.  
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\* [UNPUBLISHED]  
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Submitted: March 25, 2010

Filed: April 12, 2010

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Before MELLOY, BOWMAN, and SMITH, Circuit Judges.

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PER CURIAM.

Inmate Christopher Prosser appeals an order of the District Court<sup>1</sup> denying his motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure that sought relief from two orders of the court: a May 2008 order granting two defendants'

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<sup>1</sup>The Honorable Donald J. Stohr, United States District Judge for the Eastern District of Missouri.

motion to dismiss, and a January 2009 order granting Prosser's motion to voluntarily dismiss the remaining defendants without prejudice.

We review the denial of a Rule 60(b) motion for abuse of discretion, see MIF Realty L.P. v. Rochester Assocs., 92 F.3d 752, 755 (8th Cir. 1996), and we find no abuse of discretion in this case. As to the May 2008 dismissal order, Prosser sought Rule 60(b) relief by challenging the substantive basis for the dismissal, but this challenge should have been raised in a direct appeal of that order. See Sanders v. Clemco Indus., 862 F.2d 161, 170 (8th Cir. 1988). As to the January 2009 voluntary dismissal, Prosser did not demonstrate exceptional circumstances warranting relief from the consequences of his own motion, see Arnold v. Wood, 238 F.3d 992, 998 (8th Cir.), cert. denied, 534 U.S. 975 (2001), and we note that he is free to refile his claims against the voluntarily dismissed defendants if he so wishes.

Accordingly, we affirm, and we deny the pending motions.

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