

**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 20-3595

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Randy Davidson; Bonnie Davidson; Travis Doran,

*Plaintiffs - Appellants,*

Mark Reyes,

*Plaintiff.*

v.

Village of Freistatt; Deborah Shoen, in her official and individual capacities; Eva Jobe, in her official and individual capacities; Delpha Bowling, in her official and individual capacities; Brenna Schroeder, in her official and individual capacities; James Ortwein, in his official and individual capacities; William Petrus, in his official and individual capacities; Elmer Conway, in his official and individual capacities,

*Defendants - Appellees.*

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Appeal from United States District Court  
for the Western District of Missouri - Joplin

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Submitted: August 5, 2021

Filed: August 24, 2021

[Unpublished]

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Before COLLOTON, GRUENDER, and KOBES, Circuit Judges.

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PER CURIAM.

Randy Davidson, Bonnie Davidson, Travis Doran, and Mark Reyes appeal following the district court's<sup>1</sup> adverse grant of summary judgment and denial of their Federal Rule of Civil Procedure 60(b) motion in their civil rights action.

Initially, we conclude that the December 14 notice of appeal (NOA) was timely filed within 30 days of the November 12 order denying plaintiffs' Rule 60(b) motion for reconsideration. *See* Fed. R. App. P. 4(a)(1)(A), 26(a)(1)(C). However, because the May 19 Rule 60(b) motion was not filed within 28 days after the April 20 judgment was entered, it was not timely to toll the time to appeal the judgment or the earlier partial dismissal. *See* Fed. R. App. P. 4(a)(4)(A)(vi). Thus, we have jurisdiction to review only the November 12 denial of the Rule 60(b) motion. *See Dieser v. Cont'l Cas. Co.*, 440 F.3d 920, 923 (8th Cir. 2006).

We conclude that the district court did not abuse its discretion by denying the Rule 60(b) motion, as the denial was not based on clearly erroneous fact findings or erroneous conclusions of law, and plaintiffs did not present exceptional circumstances warranting relief under that rule. *See* Fed. R. Civ. P. 60(b); *Giles v. Saint Luke's Northland-Smithville*, 908 F.3d 365, 368 (8th Cir. 2018); *Noah v. Bond Cold Storage*, 408 F.3d 1043, 1045 (8th Cir. 2005) (per curiam) (standard of review). Accordingly, we affirm. *See* 8th Cir. R. 47B.

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<sup>1</sup>The Honorable Brian C. Wimes, United States District Judge for the Western District of Missouri.