

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

JOHNNY REYNOLDS, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 ALABAMA DEPARTMENT OF )  
 TRANSPORTATION, et al., )  
 )  
 Defendants. )

CIVIL ACTION NO.  
2:85cv665-MHT  
(WO)

ORDER

This case is before the court on the joint motion to correct the order dismissing the individual contempt claims of Robert Smiley and the stipulation of dismissal upon which said order was based (Doc. 9366). According to the motion, plaintiff Robert Smiley was erroneously included on a joint stipulation of dismissal (Doc. 9358) listing many other individual contempt claimants having their claims dismissed. The court then entered a judgment (Doc. 9359) dismissing the claims of the individuals listed in the parties' joint stipulation, incorrectly including Smiley. The

parties have thus requested that the court remove his name from the stipulation of dismissal and the court's judgment. They cite Federal Rules of Civil Procedure 60(a) and (b)(1) and (6) as authorizing the correction.

Rule 60(a) authorizes the court to "correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record." Fed. R. Civ. P. 60(a). This rule allows the court to correct the stipulation of dismissal, which included a clerical mistake.

As for the judgment, Rule 60(b) authorizes the court to "relieve a party or its legal representative from a final judgment, order, or proceeding for ... (1) mistake, inadvertence, surprise, or excusable neglect; ... or (6) any other reason that justifies relief." Fed. R. Civ. P. 60(b)(1) & (6). The court finds that ICC claimant Robert Smiley should be relieved from the final judgment against him because it was entered due to a mistake.

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Accordingly, it is ORDERED that the parties' joint motion (Doc. 9366) is granted to the following extent:

(1) The stipulation of dismissal (Doc. 9358) is corrected to remove Robert Smiley. The clerk of court shall note the correction on the docket text for the stipulation.

(2) The judgment (Doc. 9359) is amended to remove Robert Smiley for the list of individuals whose claims were dismissed. The clerk of court shall note the correction on the docket text for the judgment and shall correct the docket to reflect that pro se claimant Robert Smiley is an active plaintiff.

(3) The clerk of court shall mail a copy of this order to Smiley at his last known address.

The court will enter orders on the pending motion for summary judgment as to Smiley's claim (Doc. 9293) and the related report and recommendation (Doc. 9349) shortly.

DONE, this the 9th day of August, 2021.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE