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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

LEANTHONY T. WINSTON,

Plaintiff,

v.

LT. HOMES, OFFICER GONZALES, and
OFFICER KANTUA,

Defendants.

Case No. 1:24-cv-00824 JLT HBK (PC)

ORDER DENYING PLAINTIFF’S MOTION
FOR RELIEF UNDER RULE 60

(Doc. 14)

LeAnthony T. Winston seeks to hold the defendants liable for violations of his civil rights while housed at United States Penitentiary, Atwater. (*See generally* Doc. 1.) While the matter is pending screening, Plaintiff filed a motion entitled “Rule 60(b) Fed. R. Civ. P., Motion for Relief From Judgment.” (Doc. 14.) Pursuant to Federal Rule of Civil Procedure 60(b), the Court may order relief from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic) misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Fed. R. Civ. P. 60.

1 In the motion for relief, Plaintiff refers to both state and federal court orders that are not a
2 part of this case. (*See, e.g.*, Doc. 14 at 3.) In fact, Plaintiff does not cite *any* order issued in this
3 case, which he initiated on July 17, 2024. The only actions taken by the Court in this action relate
4 to the denial of Plaintiff's application to proceed *in forma pauperis*. The Court cannot reasonably
5 infer that Plaintiff's motion seeks relief under Rule 60(b) of the order denying his application to
6 proceed *in forma pauperis*, because Plaintiff dated this motion October 28, 2024 (*id.* at 6), and it
7 entered in the prison mail system *before* the Court issued its order on October 31, 2024. Because
8 it appears Plaintiff seeks only relief from orders in different matters, this Court has no grounds to
9 provide the requested relief under Rule 60(b). Rather, such relief must be requested in the proper
10 actions and before the proper court(s) with jurisdiction over the identified actions. Thus, the

11 Court **ORDERS**:

- 12 1. Plaintiff's motion for relief under Rule 60 (Doc. 14) is **DENIED**.
- 13 2. Plaintiff **SHALL** pay the filing fee in full within 30 days of the date of service of this
14 order.

15 **Plaintiff is again advised that failure to pay the required filing fee as ordered will result**
16 **in the dismissal of this action without prejudice.**

17
18 IT IS SO ORDERED.

19 Dated: **January 7, 2025**


UNITED STATES DISTRICT JUDGE