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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

E. K. WADE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. [06-cv-02346-CRB](#)

**ORDER DENYING AMENDED  
MOTION TO REOPEN**

In 2005 and 2006, Plaintiff E.K. Wade filed twenty-four lawsuits in the Northern District of California, eight of which related to problems he experienced at Veterans Administration hospitals. See Order Granting Mot. for SJ (dkt. 82) at 1–2. In some of the lawsuits, Wade asserted claims based on a VA hospital’s refusal to fill his prescription for Prednisone. Id. at 2. In this lawsuit, by contrast, he asserted claims based on an allegedly negligent decision to give him Prednisone. Id. On August 24, 2007, the Court granted the government’s motion for summary judgment after Wade failed to file any opposition. See id.

Now, over thirteen years later, Wade has moved to reopen this case and vacate the judgment against him. See Amend. Mot. to Reopen (dkt. 87). He argues that the Court lacked subject matter jurisdiction and denied him due process, and that (alternatively) the interests of justice require the Court to reopen the case. Id. at 5. Wade’s arguments appear to be primarily aimed at a prefilng order entered in this case on December 14, 2006. See Prefiling Order (dkt. 55). Wade also appears to contest a similar prefilng order entered by Judge Alsup in a different action. See Amend. Mot. to Reopen at 7; see Wade v. Gilliland et al, No. 10-cv-00425-WHA Dkt. Nos. 100, 168.

1 Rule 60(b) of the Federal Rules of Civil Procedure enumerates grounds for relief  
2 from a final judgment. These grounds include:

- 3 (1) mistake, inadvertence, surprise, or excusable neglect;
- 4 (2) newly discovered evidence that, with reasonable diligence, could not have  
5 been discovered in time to move for a new trial under Rule 59(b);
- 6 (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or  
7 misconduct by an opposing party;
- 8 (4) the judgment is void;
- 9 (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 (6) any other reason that justifies relief.

10 Fed. R. Civ. P. 60(b).

11 Even if a party can present grounds for relief under Rule 60(b), the party must do so  
12 “within a reasonable time.” Fed. R. Civ. P. 60(c)(1). A motion relying on the first three  
13 grounds must be made “no more than a year after the entry of the judgment or order or the  
14 date of the proceeding.” *Id.*

15 Here, to the extent Wade’s motion might rest on the first three grounds, it is time-  
16 barred under Rule 60(c)(1)’s one-year deadline. And to the extent Wade suggests that the  
17 Court’s judgment and prefiling order are void, or that other reasons justify relief, he has  
18 not moved for that relief “within a reasonable time.” *See* Fed. R. Civ. P. 60(c)(1). Wade  
19 offers no explanation for his more than thirteen-year delay in filing the motion to reopen.<sup>1</sup>

20 Wade’s apparent challenge to a separate, decade-old order also must fail, even  
21 leaving aside any timing issues. *See generally* Amend. Mot. to Reopen at 7; *Wade v.*  
22 *Gilliland et al*, No. 10-cv-00425-WHA Dkt. No. 100. That order was not issued in this  
23 case or even by the undersigned judge. Neither Rule 60 nor any other authority permits a  
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25 <sup>1</sup> Had Wade timely moved for this relief, the Court would nonetheless deny Wade’s motion.  
26 Wade provides no reason to conclude that the judgment was void or that the interests of justice  
27 require reopening this case. As Judge Alsup has already concluded with respect to similar  
28 arguments, the prefiling order was valid. *See Wade v. Gilliland et al*, No. 10-cv-00425-WHA Dkt.  
No. 141 (N.D. Cal. March 27, 2019), *affirmed Wade v. Gilliland*, 812 F. App’x 624 (9th Cir.  
2020). Wade’s history as a vexatious litigant is well-documented, and Wade had ample  
opportunity to challenge the order before this Court and on appeal.

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party to challenge an order in one case by moving to reopen another case.

For the foregoing reasons, Wade’s motion to reopen is denied.

**IT IS SO ORDERED.**

Dated: March 19, 2021



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CHARLES R. BREYER  
United States District Judge