

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DARRELL MITCHELL,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

Case No. [13-cv-03765-JD](#)

**ORDER DENYING MOTION FOR
RELIEF FROM FINAL
JUDGMENT**

Re: Dkt. No. 67

This is a civil rights case filed pro se by a state prisoner. The Court granted a motion for summary judgment for one defendant and granted a motion to dismiss but provided plaintiff leave to amend with respect to another defendant. Plaintiff filed a second amended complaint, but the Court dismissed that complaint and closed the case. Plaintiff has now filed a motion for relief from final judgment pursuant to Fed. R. Civ. P. 60(b).

Rule 60(b) lists six grounds for relief from a judgment. Such a motion must be made within a “reasonable time,” and as to grounds for relief (1) - (3), no later than one year after the judgment was entered. *See* Fed. R. Civ. P. 60(b). Rule 60(b) provides for reconsideration where one or more of the following is shown: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered before the court's decision; (3) fraud by the adverse party; (4) the judgment is void; (5) the judgment has been satisfied; (6) any other reason justifying relief. Fed. R. Civ. P. 60(b); *School Dist. 1J v. ACandS Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Rule 60(b) provides a mechanism for parties to seek relief from a judgment when “it is no longer equitable that the judgment should have prospective application,” or when there is any other reason justifying relief from judgment. *Jeff D. v. Kempthorne*, 365 F.3d 844, 853-54 (9th Cir. 2004) (quoting Fed. R. Civ. P. 60(b)).


Plaintiff filed this case in August 2013, while incarcerated at Mule Creek State Prison (“MCSP”). The case concerned medical treatment while plaintiff was incarcerated at San Quentin State Prison and Lake County Jail from 2008 to 2011, and referrals and treatment at the University

1 of California San Francisco. In this motion, plaintiff contends the Court did not consider evidence
2 about plaintiff's medical treatment at MCSP when he was transferred there in April 2012.

3 Plaintiff's motion is denied. Plaintiff has not shown that the treatment he received at
4 MCSP starting in 2012 is relevant to this action. None of the defendants in this action were
5 employed at MCSP and the subject matter of the case concerned events prior to plaintiff's transfer
6 to that prison. The Court denied plaintiff's request to expand the record because the new
7 allegations occurred at a different prison in a different district. Docket No. 65 at 5. Plaintiff also
8 argues that he filed this action while at San Quentin State Prison, and was transferred to MCSP
9 after this case was being litigated; therefore, the Court should reconsider the prior order. Plaintiff
10 is mistaken. He filed his original complaint while at MCSP and only presented allegations against
11 the defendants at San Quentin State Prison and he has not described why this new evidence could
12 not have been presented sooner. Docket No. 1. Regardless, plaintiff has still failed to demonstrate
13 how medical care at MCSP was relevant to the medical care provided by defendants in this action.
14 Because plaintiff has not shown that he is entitled to relief pursuant to Fed. R. Civ. P. 60(b), this
15 motion (Docket No. 67) is **DENIED**.

16 **IT IS SO ORDERED.**

17 Dated: March 17, 2016

18 
19 _____
20 JAMES DONATO
21 United States District Judge
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DARRELL MITCHELL,
Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,
Defendants.

Case No. [13-cv-03765-JD](#)

CERTIFICATE OF SERVICE

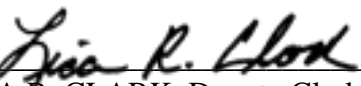
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 17, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Darrell Mitchell ID: CDCR# K-48636
Mule Creek State Prison B-9-220U
P.O. Box 409040
Ione, CA 95640

Dated: March 17, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO