

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSE LUIS PARRA ASCENSIO,

Plaintiff,

vs.

ROBERT HERNANDEZ, et al.,

Defendants.

CASE NO. 13cv1538-LAB (PCL)

**ORDER DENYING MOTION
PURSUANT TO FED. R. CIV. P. 60**

Plaintiff Parra Ascencio, who was a prisoner when this case was filed, first litigated his claims unsuccessfully in case 10cv2454-BTM (WVG), *Diparra v. Bennet, et al.* (S.D. Cal., filed Nov. 29, 2010). Six months after the last activity in that docket, he filed his complaint in this case, raising the same claims. The court dismissed the action as frivolous. Parra Ascencio brought an appeal, which was unsuccessful; his appeal was dismissed on February 10, 2014. After that, he attempted to reopen the case, but the filing he submitted was rejected on July 16, 2014.

Parra Ascencio has now submitted a motion pursuant to Fed. R. Civ. P. 60(b), which the Court has accepted by discrepancy order.

The motion says Parra Ascencio is no longer in prison, as he was when he litigated his previous claims. In an apparent effort to explain why he failed to litigate his claims successfully earlier and why he waited so long to seek reconsideration, he explains that he is a mental health patient. He asks the Court to reverse the Ninth Circuit's dismissal of his

1 appeal, which he blames on clerical error. He blames several federal district judges for
2 confusing him. He blames several “counselors,” apparently jailhouse lawyers, for
3 misunderstanding court procedures and causing his claims to be dismissed. He blames the
4 prison library’s short hours for his neglect of his case. He also points to his *pro se* status,
5 which he believes excuses his errors and neglect.

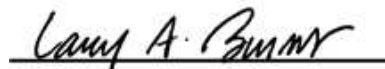
6 The motion is frivolous. Even though he was proceeding *pro se*, Parra Ascensio is
7 required to obey the same procedural rules as other litigants; this includes obeying
8 deadlines, following required procedures, and prosecuting his claims. *See Ghazali v. Moran*,
9 46 F.3d 52, 54 (9th Cir. 1995). Furthermore, he has provided no acceptable reason why he
10 neglected his case for years. The health records he has submitted do not show he was
11 incapacitated or unable to file pleadings or prosecute his case. And finally, the Court has
12 no authority to require the Ninth Circuit to reinstate his appeal.

13 The motion is **DENIED**, and Parra Ascensio must not file any more requests for
14 reconsideration or clarification. Any more documents he submits for filing will be summarily
15 rejected.

16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

DATED: May 9, 2016



HONORABLE LARRY ALAN BURNS
United States District Judge