

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Chief Judge Wiley Y. Daniel

Civil Action No. 05-cv-01767-WYD-MEH

CARL WILLIAM PURSLEY, JR.,

Applicant,

v.

AL ESTEP, Warden of LCF, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

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**ORDER**

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THIS MATTER comes before the Court on Plaintiff Carl Pursley Jr.'s ("Pursley") Motion for Relief from Final Judgment Pursuant to Rule 60(b)(6) [DE-111] and Motion for Order to Expand Record [DE-112]. By these motions, Pursley seeks relief from the final judgment entered in this case on November 1, 2006 [DE-35]. Pursley suggests that he is entitled to relief under Rule 60(b)(6) due to a recent Supreme Court decision, *Martinez v. Ryan*, 132 S.Ct. 1309 (2012), that changed the relevant case law. Having reviewed Pursley's papers and the applicable law, I must deny both of his motions.

Relief should not be granted pursuant to Rule 60(b)(6) unless the movant shows exceptional or extraordinary circumstances. *Johnston v. Cigna Corp.*, 14 F.3d 486, 497 (10th Cir. 1993). The rule in the Tenth circuit is that not even a change in the law constitutes an extraordinary circumstance which would allow relief under Rule 60(b)(6).

*Pierce v. Cook & Co.*, 518 F.2d 720, 722 (10th Cir. 1975). I do not find the minor change in law reflected in *Martinez* to provide the extraordinary circumstances warranting relief under Rule 60(b)(6). See also *Adams v. Thaler*, 679 F.3d 312, 320 (5th Cir. 2012)(The “decision in *Martinez*... does not constitute an ‘extraordinary circumstance’ under Supreme Court and our precedent to warrant Rule 60(b)(6) relief.”). Accordingly, it is

ORDERED THAT Applicant Carl Pursley Jr.’s Motion for Relief from Final Judgment Pursuant to Rule 60(b)(6) [DE-111] and Motion for Order to Expand Record [DE-112] are DENIED.

Dated: November 8, 2012

BY THE COURT:

s/ Wiley Y. Daniel  
Wiley Y. Daniel  
Chief United States District Judge