

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00182-ZLW

TIMOTHY DOYLE YOUNG,

Plaintiff,

v.

BOP,

Defendant.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 07 2009

GREGORY C. LANGHAM
CLERK

ORDER DENYING MOTION TO RECONSIDER

At issue in the instant action is the "Rule # 60 Motion" filed by Plaintiff Timothy Doyle Young, a *pro se* litigant, on July 30, 2009. Mr. Young is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in Florence, Colorado. The instant action originally was filed in the United States District Court for the District of Columbia (District of Columbia). On November 15, 2007, the District of Columbia ordered the instant action transferred to this Court pursuant to 28 U.S.C. § 1406(a). The action subsequently was transferred to this Court on January 29, 2008.

The Court must construe the July 30, 2009, Motion liberally because Mr. Young is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons stated below, the Motion will be denied.

Final decisions are those that end the litigation on the merits and leave nothing for the district court to do except execute the judgment. *Van Cauwenberghe v. Biard*,

486 U.S. 517, 521-22 (1988); *In re Durability, Inc.*, 893 F.2d 264, 265 (10th Cir. 1990). The March 3, 2008, Order of Dismissal and the Judgment denied the Application and dismissed the action without prejudice. The instant Motion was signed and dated by Mr. Young on July 28, 2009, over one year after the final judgment was entered in the instant action. The Motion, therefore, is construed as a Motion to Reconsider filed pursuant to Fed. R. Civ. P. 60(b). Relief under Rule 60(b) is appropriate only in extraordinary circumstances. *See Massengale v. Oklahoma Bd. of Examiners in Optometry*, 30 F.3d 1325, 1330 (10th Cir. 1994).

In the March 3, 2008, Order of Dismissal, the Court dismissed the action pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). The Court found Mr. Young's claims to be repetitious of the claims that he raised in *Young v. Wiley*, No. 07-cv-02240-ZLW (D. Colo. Apr. 10, 2008). Mr. Young's attempt to assert that the instant action should not have been dismissed by this Court pursuant to § 1915(e)(2)(B)(i) is without merit. Upon review of the District of Columbia's Docket, in *Young v. BOP*, No. 07-cv-01759-UNA (Dist. D.C. Nov. 15, 2007), and the copy of the Petition that was transferred to this Court and was entered in the instant action, the Court finds that without doubt the District of Columbia transferred to this Court the Petition that it intended to transfer to this Court.

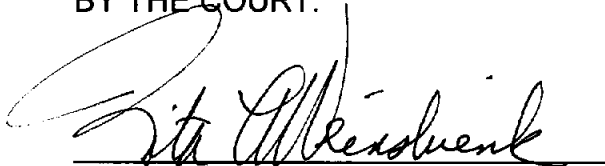
Upon consideration of the entire file, the Court finds and concludes that Mr. Young fails to demonstrate some reason why the Court should reconsider and vacate the dismissal of this action. The Petition is repetitive of the claims that Mr. Young

filed in Case No. 07-cv-02240-ZLW and properly was dismissed pursuant to § 1915(e)(2)(B)(i). The Motion will be denied. Accordingly, it is

ORDERED that the Rule # 60 Motion (Doc. No. 28), filed July 30, 2009, is construed as a Motion to Reconsider filed Fed. R. Civ. P. 60(b) and is denied.

DATED at Denver, Colorado, this 7 day of Aug., 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 08-cv-00182-ZLW

Timothy Doyle Young
Reg. No. 60012-001
ADX – Florence
PO Box 8500
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 8/10/09.

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk