

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Case No. 10-cv-01662-REB

SCOTT P. HEDDINGS,

Applicant,

v.

RENE GARCIA, Warden,

Respondent.

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**ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT**

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**Blackburn, J.**

This matter is before me on the following: (1) the applicant's **Motion For Relief From Judgment - F.R.Civ.P. 60(b)(6)** [#35]<sup>1</sup> filed September 5, 2012; and (2) the applicant's **Motion To Recharacterize Prior Filing** [#37] filed January 8, 2013. I grant the motion to re-characterize and deny the motion for relief from judgment.

I must and do construe the papers filed by the applicant liberally because he is not represented by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991). However, I may not be an advocate for a *pro se* litigant. *See Hall*, 935 F.2d at 1110.

This case concerns the applicant's **Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** [#3] filed July 13, 2010. On July 8, 2011, I entered an order [#25] denying the application. On August 7, 2012, the United States Court of

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<sup>1</sup> “[#35]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

Appeals for the Tenth Circuit entered an order [#34] affirming the denial of the application. Subsequent to the Tenth Circuit's ruling, the applicant filed his motion [#35] for relief from judgment under FED. R. CIV. P. 60(b)(6). In his most recent motion [#37], the applicant seeks to convert his previous motion [#35] to a motion under FED. R. CIV. P. 60(b)(4). I grant the motion to convert.

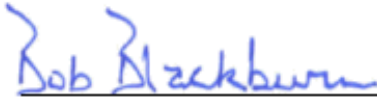
Under FED. R. CIV. P. 60(b)(4), the court may relieve a party from a final judgment if the judgment is void. In his present motions [#35 & #37], the plaintiff does not present any evidence or authority that demonstrates that the judgment in this case is void. In fact, the record is to the contrary. Thus, the request for relief under FED. R. CIV. P. 60(b)(4) should be denied.

**THEREFORE, IT IS ORDERED** as follows:

1. That the applicant's **Motion To Recharacterize Prior Filing** [#37] filed January 8, 2013, is **GRANTED**;
2. That the applicant's **Motion For Relief From Judgment - F.R.Civ.P. 60(b)(6)** [#35] filed September 5, 2012, shall be construed as a motion seeking relief under FED. R. CIV. P. 60(b)(4) and shall be considered in conjunction with the argument and authority stated by the applicant in his **Motion To Recharacterize Prior Filing** [#37] filed January 8, 2013; and
3. That the applicant's **Motion For Relief From Judgment - F.R.Civ.P. 60(b)(6)** [#35] filed September 5, 2012, is **DENIED**.

Dated January 14, 2013, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge