

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-02665-LTB

MIKEAL GLENN STINE,

Plaintiff,

v.

U.S. FEDERAL BUREAU OF PRISONS,
DR. CHRISTOPHER WILSON, ADX,
DR. DAVID ALLRED, Clinical Director,
BLAKE DAVIS, Warden, ADX,
MR. MUNSON, Associate Warden, ADX,
A. OSAGIE, Physician Assistant, ADX,
MR. SMITH, Assistant, Administrative Health Service, and
JOHN DOE, Unknown Defendants,

Defendants.

ORDER DENYING REQUEST TO VACATE
OCTOBER 28, 2011 ORDER OF DISMISSAL

The matter before the Court is the Fed. R. Civ. P. 60(b)(5) Request, that Plaintiff, Mikeal Glenn Stine, a *pro se* prisoner litigant, filed on March 19, 2012. Mr. Stine is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in Florence, Colorado. Mr. Stine is seeking reconsideration of the Order of Dismissal entered on October 28, 2011, and is attempting again to petition the Court to proceed with his claims in this action. The Court must construe the Request liberally because Mr. Stine is proceeding *pro se*. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

This case was dismissed on October 28, 2011, because Mr. Stine failed to comply with the prerequisites of his filing restrictions to which he is subject under Case No. 07-cv-01839-WYD-KLM at Doc. No. 344. Mr. Stine appealed the dismissal, and the

Tenth Circuit Court of Appeals affirmed this Court's dismissal of the action based on Mr. Stine's failure to comply. See *Stine v. U.S. Fed. Bureau of Prisons, et al.*, No. 11-1504 (10th Cir. Mar. 8, 2012) (unpublished). Based on the following findings, the Court will deny Mr. Stine's Request.

First, the circuit court affirmed this Court's dismissal of this action. Second, the circuit court instructed Mr. Stine that to challenge the imposed restrictions he must do so "*before the court that originally issued the injunction.*" See *Id.* at 19. The restrictions were not imposed in this action only enforced. Finally, according to the filing restrictions under Case No. 07-cv-01839, Mr. Stine may not pursue two petitions to file a complaint at the same time. Mr. Stine currently has a petition for consideration under review by the Court in Case No. 12-cv-00547-BNB.

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). Upon consideration of the Request and the entire file, I find that Mr. Stine fails to demonstrate some reason why the Court should reconsider and vacate the October 28, 2011 Order of Dismissal. Accordingly, it is

ORDERED that Mr. Stine's Request to vacate the October 28, 2011 Order of Dismissal, Doc. No. 19, is denied.

DATED at Denver, Colorado, this 22nd day of March, 2012.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court

