

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02576-LTB

JOSEPH CHRISTOPHER IPPOLITO,

Applicant,

v.

STATE OF COLORADO: DEPARTMENT OF CORRECTIONS/DIVISION OF ADULT
PAROLE,

JOHN W. HICKENLOOPER, Governor,

RICK RAEMISCH, Executive Director (DOC),

WALT PESTERFIELD, Director of Adult Parole, Colorado Department of Corrections,
and

JOHN AND JANE DOES, et al., X-XL, 1-100,

Respondents.

ORDER DENYING MOTION FOR RECONSIDERATION

Applicant, Joseph Christopher Ippolito, filed, *pro se* a “Motion for Reconsideration of District Court’s ‘Order’” (ECF No. 6), on October 17, 2014. The Court must construe the document liberally because Mr. Ippolito is not represented by an attorney. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). The motion will be construed liberally as a motion for reconsideration of the Court’s September 18, 2014 Order Closing Case.

Rule 60(b) of the Federal Rules of Civil Procedure provides that “on motion and just terms” a court may relieve a party from a final order because of “mistake, inadvertence, surprise, or excusable neglect . . . [or] any other reason that justifies relief.” Fed. R. Civ. P. 60(b)(1), (6). Relief under Rule 60(b) “is extraordinary and may be granted only in exceptional circumstances.” See *Dronsejko v. Thornton*, 632 F.3d

658, 664 (10th Cir. 2011) (internal quotation marks and citation omitted).

On September 17, 2014, Mr. Ippolito submitted the following documents: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 1); “Motion for Writ of Mandamus” (ECF No. 3); and, “Proof of Exhaustion Requirement Pursuant to 2254(B)(1)” (ECF No. 4). The Clerk’s Office mistakenly opened this action with the submitted documents. However, the documents should have been filed in *Joseph C. Ippolito v. State of Colorado: Department(s) of Corrections/Division of Adult Parole, et al.*, Civil Action No. 14-cv-01566-BNB. Accordingly, the Court entered an Order Closing Case on September 18, 2014 (ECF. No. 5). In the Order, the Court directed the Clerk’s Office to file the documents submitted by Mr. Ippolito on September 17, 2014 in Civil Action No. 14-cv-01566-BNB. (*Id.*). The documents were docketed in No. 14-cv-01566-BNB, as Nos. 26, 27 and 28, with a filing date of September 17, 2014. (See Action No. 14-cv-01566-BNB, at ECF Nos. 26, 27 and 28).

Mr. Ippolito now asks the Court to reconsider the September 18, 2014 Order Closing Case, but he fails to demonstrate that closure of this case was a mistake. Further, Mr. Ippolito has not suffered any prejudice as a result of the September 18 Order because the documents filed in this case were re-filed in his pending case. Accordingly, it is

ORDERED that Applicant, Joseph Christopher Ippolito's "Motion for Reconsideration of District Court's Order" (ECF No. 6), filed on October 17, 2014, which the Court has treated as a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b), is DENIED.

DATED October 22, 2014, at Denver, Colorado.

BY THE COURT:

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