

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

PATRICK SABAJ,

Plaintiff,

v.

JENNIFER M. NOTTAGE,

Defendant.

CAUSE NO. 3:23-CV-299-DRL-MGG

OPINION AND ORDER

Patrick Sabaj, a prisoner without a lawyer, filed a motion to reopen this closed case. ECF 20. The case was dismissed on August 31, 2023, pursuant to 28 U.S.C. § 1915A because his second amended complaint failed to state any plausible claims. ECF 18. Mr. Sabaj's motion was filed more than twenty-eight days after the entry of the judgment, so it is construed pursuant to Federal Rule of Civil Procedure 60(b). *See Banks v. Chicago Bd. of Educ.*, 750 F.3d 663, 666 (7th Cir. 2014). An order granting relief under Rule 60(b) is an "extraordinary remedy" that is granted "only in exceptional circumstances." *Karraker v. Rent-A-Center, Inc.*, 411 F.3d 831, 837 (7th Cir. 2005). Here, the only arguably applicable basis for relief is "mistake, inadvertence, surprise, or excusable neglect." Fed. R. Civ. P. 60(b)(1).

In his motion, Mr. Sabaj correctly notes that on August 24, 2023, he was granted an extension of time until October 6, 2023, to file his second amended complaint. ECF 15. He claims that he couldn't file his second amended complaint by the deadline because he was "taken out to the hospital (Oct. 1, 2023) until (Oct. 9, 2023)" and that his "medical

standards had a lot to do with my being late with my proceedings.” ECF 20 at 1-2. He states he would “like another chance at putting my complaint together.” *Id.* at 2.

Mr. Sabaj’s case was not dismissed because he failed to meet a deadline. It was dismissed because his second amended complaint – which he filed and signed on August 28, 2023, *after* the court granted him the extension – did not state any claims. *See generally* ECF 18. Moreover, Mr. Sabaj has not provided a sufficient explanation why he waited over five months to file the instant motion.

For these reasons, the motion to reopen (ECF 20) is DENIED. This case REMAINS CLOSED.

SO ORDERED.

February 13, 2024

s/ Damon R. Leichty
Judge, United States District Court