

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

CATHY TISH'CHARA PROWELL-URSERY,)
)
)
 Plaintiff,)
)
 vs.)
)
)
INDIANAPOLIS POLICE DEPARTMENT,)
et al.,)
)
)
 Defendants.)
)

Entry Discussing Post-Judgment Filings

I.

The plaintiff's motion for reconsideration (dkt 9), filed on July 8, 2008, seeks reconsideration of the dismissal of this action. The complaint was dismissed on May 2, 2008, because it failed to state a claim upon which relief can be granted. The plaintiff was given the opportunity to submit an amended complaint, which she failed to do. The action was dismissed for failure to prosecute on June 3, 2008.

The date a post-judgment motion is filed is significant. *See Hope v. United States*, 43 F.3d 1140, 1142 (7th Cir. 1994). In this case, the motion was filed over a month after the entry of judgment. Any substantive post-judgment motion filed more than ten days after the entry of judgment is evaluated as a motion for relief from judgment pursuant to Rule 60(b) of the *Federal Rules of Civil Procedure*. *Easley v. Kirmsee*, 382 F.3d 693, 696 n.2 (7th Cir. 2004); *Britton v. Swift Transp. Co., Inc.*, 127 F.3d 616, 618 (7th Cir. 1997) (citations omitted).

Pursuant to Rule 60(b), a court may relieve a party from a final judgment based on, among other reasons, "mistake, inadvertence, surprise, or excusable neglect;" "newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial;" or "fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party." *Hicks v. Midwest Transit, Inc.*, 531 F.3d 467, 474 (7th Cir. 2008) (quoting *Fed.R.Civ.P. 60(b)*). Rule 60(b) also authorizes relief for "any other reason that justifies relief." Rule 60(b)(6). Relief from judgment under Rule 60 is an extraordinary remedy which should be granted only in exceptional circumstances. *Harrington v. City of Chicago*, 433 F.3d 542, 546 (7th Cir. 2006); *Del Carmen v. Emerson Electric Co.*, 908 F.2d 158, 161 (7th Cir. 1990). Such relief is warranted "only upon a showing of extraordinary circumstances that create substantial danger that the underlying judgment was unjust." *Margoles v. Johns*, 798 F.2d 1069, 1073 (7th Cir. 1986).

A post-judgment motion "must be shaped to the specific grounds for modification or reversal found in 60(b)--they cannot be general pleas for relief." *United States v. Deutsch*, 981 F.2d 299, 301 (7th Cir. 1992). For a Rule 60(b) movant to obtain the relief requested, she must show that she had both grounds for relief, *Fed. R. Civ. P.* 60(b)(1)-(6), and a meritorious claim or defense. *Breuer Electric Mfg. Co. v. Toronado Systems of America, Inc.*, 687 F.2d 182, 185 (7th Cir. 1982). In her post-judgment motion, the plaintiff explains that she has experienced various challenges in her life, including sudden changes of address, confinement in jail, and a mental health condition. None of the circumstances recited by the plaintiff in her motion satisfy the grounds for relief in Rule 60(b). In addition, to date, the plaintiff has not presented an amended complaint as directed in the Entry of May 2, 2008, asserting a meritorious claim. Because neither of the required showings have been made in this case, the motion for reconsideration (dkt 9), treated as a motion for relief from judgment, is **denied**.

II.

The plaintiff's additional post-judgment filings of August 13, 2008 (dkt 10) and October 15, 2008 (dkt 11) do not relate to the parties or circumstances of this case. These filings were properly filed in another case, *Ursery v. Ozburn-Hessey Logistics*, 1:07-cv-472-DFH-JMS. In the future, so as to not waste judicial resources on matters not before the court, the plaintiff should take care to file materials only in the appropriate case.

So ordered.



DAVID F. HAMILTON, Chief Judge
United States District Court

Date: 10/21/2008

Distribution:

Cathy Tish'Chara Prowell-Ursery
3720 N. Meridian Street, Apt. 306
Indianapolis, IN 46208