

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**JOSHUA J. ROBERTSON,**

**Plaintiff,**

**v.**

**CASE NO. 17-3211-SAC**

**ALEYCIA McCULLOUGH, et al.,**

**Defendants.**

**MEMORANDUM AND ORDER**

This matter is a civil rights action filed under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 20000cc-1 to -5. On December 22, 2017, the Court summarily dismissed this action for failure to state a claim for relief. The U.S. Court of Appeals for the Tenth Circuit affirmed the dismissal on August 2, 2018.

On September 19, 2018, plaintiff filed a motion for relief from judgment (Doc. #20) alleging that both orders are void.<sup>1</sup> Plaintiff appears to argue that the Court erred in failing to notify him that his complaint had been converted to a motion for summary judgment and allowing him an opportunity to respond. He reasons that because he was not given that opportunity, the judgment is void and should be set aside.

Plaintiff seeks relief under Federal Rule of Civil Procedure 60(b)(4). A judgment is void under that provision only where the court rendering that judgment was powerless to enter judgment, that is, "it lacked jurisdiction of the subject matter, or of the parties, or acted

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<sup>1</sup> The Court cannot address any challenge to the order entered by the Tenth Circuit. This order addresses only plaintiff's challenge to its Memorandum and Order dismissing this case (Doc. #8).

in a manner inconsistent with due process of law.” *United States v. Buck*, 281 F.3d 1336, 1344 (10<sup>th</sup> Cir. 2002) (quoting *In re Four Seasons Sec. Laws Litig.*, 502 F.2d 834, 842 (10<sup>th</sup> Cir. 1974)).

Here, the Court screened plaintiff’s complaint under 28 U.S.C. § 1915A(a), which directs the federal courts to conduct a preliminary review of complaints filed by prisoners seeking relief from a governmental entity of officer or employee. Under that provision, the federal courts may dismiss those complaints that are frivolous, malicious, or fail to state a claim for relief or that seek money damages from a defendant who is immune from that relief. 28 U.S.C. §1915A(b). In evaluating the complaint, the Court considered the complaint and the exhibits submitted by the plaintiff but did not consider any materials from outside that record which might require notice to plaintiff and the opportunity to respond. The Court’s review was conducted within the scope of 28 U.S.C. § 1915A, and plaintiff has not shown that the judgment in this matter is void for any reason.

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff’s motion for relief from judgment (Doc. #20) is denied.

**IT IS SO ORDERED.**

DATED: This 25th day of September, 2018, at Topeka, Kansas.

S/ Sam A. Crow  
SAM A. CROW  
U.S. Senior District Judge