

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL ISHMAEL GRESHAM,

Plaintiff,

v.

Case No.: 13-10189

Honorable Gershwin A. Drain

DEPUTY DARREL M. STEWART, *et*
al.,

Defendants.

ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT [#96]

On January 9, 2017, this Court entered an Order Revoking *In Forma Pauperis* Status and Dismissing Action. *See* Dkt. No. 93. Presently before the Court is the Plaintiff's Motion for Relief from Judgment, filed on August 2, 2017.

Federal Rule of Civil Procedure 60(b) allows a party relief from judgment, order or other proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence, that, with reasonable diligence, could have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b)(6). Plaintiff brings his present motion pursuant to Rule 60(b)(1) arguing that due to “oversight and mistake Plaintiff did not receive notice his case was dismissed and has recently learned his case was dismissed.” *See* Dkt. No. 96 at 1. Plaintiff further argues that he provided documents evidencing that he was in imminent danger of serious physical injury and that the Court should not have relied on the medical exhibits submitted by Plaintiff because the Defendants “are writing out false mental reports to declare Plaintiff mentally ill” *Id.* at 2.

As an initial matter, the docket sheet in this matter belies Plaintiff’s claim that he did not receive timely notice of the dismissal of this action. The Court’s deputy clerk served Plaintiff with a copy of the Court’s January 9, 2017 Order Revoking *In Forma Pauperis* Status and Dismissing Action.

Additionally, Plaintiff has not identified any “oversight or mistake” with respect to this Court’s January 9, 2017 Order, wherein the Court concluded that *in forma pauperis* status based on the imminent danger exception was erroneously granted under 28 U.S.C. § 1915(g). Relief under Rule 60(b)(1) is intended to provide relief only under the following circumstances: (1) when the party has made an excusable litigation mistake or an attorney in the litigation acted without authority; or (2) when the judge has made a substantive mistake of law or fact in the final judgment or order. *Cacevic v. City of Hazel Park*, 226 F.3d 483, 489 (6th

Cir. 2000)(internal quotation marks omitted). A review of Plaintiff's present motion reveals that he disagrees with this Court's reasoning and conclusion. This is not a valid basis for relief from judgment under Rule 60(b)(1).

Accordingly, Plaintiff's Motion for Relief from Judgment [#96] is DENIED.

SO ORDERED.

Dated: August 23, 2017

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record and on Michael Ishmael Gresham, No. 202603, Marquette Branch Prison, 1960 U.S. Highway 41 South, Marquette, MI, 49855 on August 23, 2017, by electronic and/or ordinary mail.

/s/ Tanya Bankston
Deputy Clerk