

a reasonable time and is not premised on one of the grounds for relief enumerated in clauses (b)(1) through (b)(5).” [Liljeberg v. Health Serv. Acquisition Corp.](#), 486 U.S. 847, 863 (1988). However, “[r]elief is available under Rule 60(b)(6) only where exceptional circumstances have denied the moving party a full and fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress.” [Harley v. Zoesch](#), 413 F.3d 866, 871 (8th Cir. 2005).

The court has carefully reviewed Plaintiff’s Objection and Motion and finds that he is not entitled to relief under [Rule 59\(e\)](#) or [Rule 60\(b\)\(6\)](#).

II. IFP REQUEST

In his Objection, Plaintiff mentions that he would like to proceed in forma pauperis. (Filing No. [12](#).) Plaintiff has also filed a timely Notice of Appeal. (Filing No. [14](#).) However, as set forth in the Prison Litigation Reform Act, a prisoner cannot:

[B]ring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

[28 U.S.C. §1915\(g\)](#).

Plaintiff brought the following three cases that were dismissed because they failed to state a claim upon which relief may be granted:

- *McNeil v. Public Defender Office*, No. 4:06CV3204 (D. Neb.), dismissed on September 5, 2006. (Case No. 4:06CV3204, Filing Nos. [5](#) and [6](#).)

- *McNeil v. City of Omaha, et al.*, No. 8:07CV145 (D. Neb.), dismissed on May 16, 2007. (Case No. 8:07CV145, Filing Nos. [12](#) and [13](#).)
- *McNeil v. City of Omaha, et al.*, No. 8:07CV143 (D. Neb.), dismissed on August 26, 2008. (Case No. 8:07CV143, Filing Nos. [53](#) and [54](#).)

Plaintiff has not shown that he faces an imminent danger of serious physical injury, nor has he paid the filing fee for his appeal. Accordingly,

IT IS THEREFORE ORDERED that:

1. Plaintiff's Objection (filing no. [12](#)) and Motion to Correct Judgment (filing no. [13](#)) are denied.
2. Plaintiff's request for leave to proceed on appeal in forma pauperis (filing no. [13](#)) is denied without prejudice to reassertion before the Eighth Circuit Court of Appeals.
3. The Clerk of the court is directed to send a copy of this order to the Eighth Circuit Court of Appeals.

DATED this 11th day of March, 2014.

BY THE COURT:

s/ Joseph F. Bataillon

United States District Judge

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