

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRUCE MCGRONE,

Plaintiff,

vs.

DEPARTMENT OF CORRECTIONS
STATE OF NEBRASKA, (WARDEN)
STATE OF NEBRASKA
DIAGNOSTIC EVALUATION
CENTER (FACILITY), SORENSON,
C.O. Corporal (Employed at Nebraska
Diagnostic & Evaluation Facility); and
THE STATE OF NEBRASKA,

Defendants.

8:17CV222

**MEMORANDUM
AND ORDER**

This matter is before the court on correspondence from Plaintiff Bruce McGrone ([filing no. 33](#)) which the court construes as a motion to reopen his case. In his correspondence, Plaintiff states that he doesn't want his lawsuit to be dismissed and that he is "still suing on individual capacity towards all parties." (*Id.* [at CM/ECF p.2.](#))

The court entered judgment on October 23, 2017, dismissing this matter without prejudice because Plaintiff failed to state a claim for relief against Defendants in their official capacities. ([Filing No. 16](#); [Filing No. 17](#).) Plaintiff appealed to the Eighth Circuit Court of Appeals, and his appeal was dismissed on March 30, 2018, for failure to prosecute. (*See* [Filing No. 31](#); [Filing No. 32](#).) This matter is closed, and Plaintiff has failed to show good cause or any exceptional circumstances that would warrant reopening this case. *See* [Fed. R. Civ. P. 60\(b\)](#); [Jones v. Swanson](#), 512 F.3d 1045, 1048 (8th Cir. 2008) (Rule 60 "provides for

extraordinary relief which may be granted only upon an adequate showing of exceptional circumstances.” (quotation omitted)).

If Plaintiff wishes to pursue claims against any of the Defendants in their individual capacities, then he may do so by filing a new civil action using the standard civil complaint form included with this Memorandum and Order. Accordingly,

IT IS ORDERED that:

1. Plaintiff’s motion to reopen his case ([filing no. 33](#)) is denied.
2. The clerk of the court send to Plaintiff a “Pro Se 14 Complaint for Violation of Civil Rights (Prisoner)” form and application to proceed without prepayment of fees.

Dated this 30th day of April, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge