

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

|  |  |  |
|--|--|--|
| <p>CURTIS L. DOWNING,</p> <p style="text-align: center;">Plaintiff(s),</p> <p style="text-align: center;">v.</p> <p>JOHNNIE GRAVES, et al.,</p> <p style="text-align: center;">Defendant(s).</p> |  | <p>Case No. 2:12-CV-332 JCM (CWH)</p> <p style="text-align: center;">ORDER</p> |
|--|--|--|

Presently before the court is pro se plaintiff Curtis Downing’s motion for relief from this court’s June 11, 2014, judgment resulting from the court’s June 6, 2014, grant of defendants’ motion for summary judgment. (ECF No. 78); see also (ECF Nos. 65, 67).

On July 10, 2014, plaintiff filed notice of appeal “from the Order/Judgment Documents 65, 67.” (ECF No. 68 at 1). On August 23, 2016, the Ninth Circuit issued a memorandum affirming this court’s grant of summary judgment. (ECF No. 74). The corresponding mandate was filed on November 15, 2016. (ECF No. 75). This court then issued its order on mandate on November 17, 2016. (ECF No. 77).

Later, plaintiff submitted the instant motion for relief under Federal Rule of Civil Procedure 60(b). In his motion, plaintiff asserted that “the matter is on appeal before the Ninth Circuit Court of Appeals, at the time of the writing of this motion.” (ECF No. 78 at 3). Again, the motion was filed after the Ninth Circuit memorandum and mandate were issued in this case affirming the decision that plaintiff currently challenges. See (ECF Nos. 74, 75, 78).

Moreover, plaintiff’s reply attacks the Ninth Circuit’s adjudication of his appeal. (ECF No. 85). That issue is not for this court to decide.

In sum, plaintiff’s motion for relief lacks merit.

James C. Mahan  
U.S. District Judge

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for relief from judgment (ECF No. 78) be, and the same hereby is, DENIED.

DATED April 28, 2017.

  
UNITED STATES DISTRICT JUDGE