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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JESUS O. TRUJILLO,

Plaintiff(s),

v.

MESQUITE GAMING LLC,

Defendant(s).

Case No. 2:15-CV-145 JCM (CWH)

ORDER

Presently before the court is pro se plaintiff Jesus Trujillo’s motion to reopen. (Doc. #16). Defendant Mesquite Gaming LLC filed a response in opposition (doc. #17); plaintiff did not file a reply.

On June 15, 2015, the clerk’s office sent notice to plaintiff regarding intent to dismiss pursuant to Fed. R. of Civ. P. 4(m). (Doc. #5). Rule 4(m) provides, “. . . If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against the defendant or order that service be made within a specified time.”

The notice advised plaintiff that his case had been pending since January 23, 2015, without any proceeding having been taken and that if no action was taken by July 15, 2015, his case would be dismissed for want of prosecution. (Doc. #5). Thereafter, defendant filed a motion to dismiss for lack of prosecution. (Doc. #6). Plaintiff did not respond, and the court granted defendant’s motion to dismiss. (Doc. #13). Plaintiff now files the instant motion to reopen case. (Doc. # 16).

A district court has the authority to grant relief from judgment pursuant to Fed. R. Civ. P. 60(b). *Kingvision Pay-Per-View Ltd. v. Lake Alice Bar*, 168 F.3d 347, 352 (9th Cir. 1999). In the Ninth Circuit, a district court has the authority to do so sua sponte. *Id.*

James C. Mahan
U.S. District Judge

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The court declines to reopen plaintiff's case and grant plaintiff relief from judgment. Plaintiff was silent for eight months and failed to file anything before this court after the court's warning that plaintiff's case would be dismissed if no action was taken. Because plaintiff's complaint was dismissed without prejudice, the court finds no reason to reopen the instant action.

Defendant preemptively filed a second motion to dismiss for failure to state a claim. (Doc. #18). As the court has declined to reopen this case, defendant's motion is moot.

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that pro se plaintiff Jesus Trujillo's motion to reopen (doc. #16) be, and the same hereby is, DENIED.

IT IS FURTHER ORDERED that defendant Mesquite Gaming LLC's motion to dismiss (doc. #18) is DENIED as moot.

DATED March 24, 2016.


UNITED STATES DISTRICT JUDGE