

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

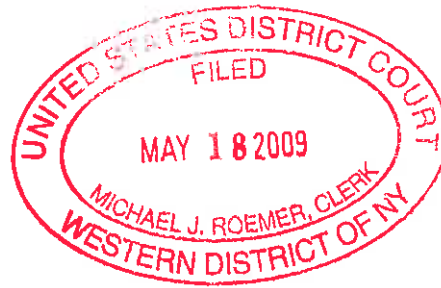
FRED GREENE, 04-A-5536,

Plaintiff,

-v-

SERGEANT FURMAN, et al.,

Defendants.



-PS-

DECISION AND ORDER
07-CV-6249L(P)

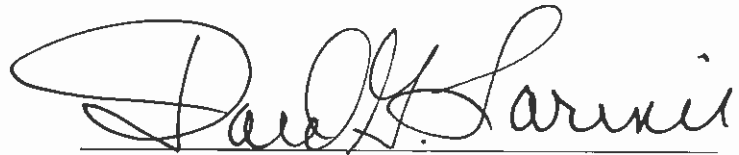
By Order filed April 21, 2009, the Court granted the defendants' motion to dismiss and the Complaint was dismissed. Plaintiff Fred Greene, an inmate proceeding *pro se*, has submitted papers objecting to what he perceived were errors in the proceeding and seeking payment of the damages. To the extent that plaintiff is challenging the dismissal, the Court deems plaintiff's papers to be a motion for reconsideration pursuant to Rule 60 of the Federal Rules of Civil Procedure, which provides for relief from a final judgment, order, or proceeding when, for example, there has been a mistake, inadvertence, surprise, excusable neglect, or newly discovered evidence which by due diligence could not have been discovered in time.

Nothing in plaintiff's motion for reconsideration allows the Court to grant relief from the April 21, 2009 Order under Fed.R.Civ.P. 60(b). Plaintiff's arguments do not address the basis upon which the action was dismissed. Plaintiff does not demonstrate that there has been a mistake, inadvertence, surprise, excusable neglect, or newly discovered evidence which by due diligence could not have been discovered in time, nor does he show that his claim should be reopened in the interest of justice. Accordingly, plaintiff's motion for reconsideration is hereby denied.

To the extent that plaintiff is seeking other relief, the action is closed and plaintiff's requests are denied as moot.

Further, the Court hereby certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from the dismissal of the action would not be taken in good faith, and leave to appeal to the Court of Appeals as a poor person is denied. *Coppedge v. United States*, 369 U.S. 438 (1962). Further requests to proceed on appeal as a poor person should be directed, on motion, to the United States Court of Appeals for the Second Circuit, in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

DATED: May 18, 2009
Rochester, New York