

United States District Court
Southern District of Texas

ENTERED

August 06, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FERNANDO GUERRERO,
TDCJ #2142911,

Plaintiff,

v.

MAYOR SYLVESTER TURNER, et al.,

Defendants.

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CIVIL ACTION NO. H-17-0386

ORDER

On June 14, 2018, the court granted the defendants' unopposed motion for summary judgment and dismissed the Prisoner's Civil Rights Complaint filed by state inmate Fernando Guerrero, after concluding that Guerrero did not demonstrate a constitutional violation or meritorious claim for purposes of liability under 42 U.S.C. § 1983 (Docket Entry No. 29). On July 19, 2018, the court denied Guerrero's "Motion to Reopen/Rehearing," which was construed as governed by Rule 60(b) of the Federal Rules of Civil Procedure (Docket Entry No. 32). Guerrero has now filed a "Notice of Error and Refiling of Complaint" (Docket Entry No. 33), arguing that he is entitled to relief from the final judgment under Rule 60(b) because he did not know that he was required to respond to the defendants' motion for summary judgment.

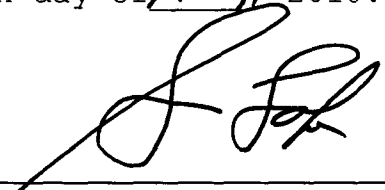
The court has previously rejected Guerrero's argument that he

had no notice of his obligation to respond to a dispositive motion, observing that he was specifically advised to respond to any "motion to dismiss or motion for summary judgment within **thirty (30) days** of the date in which the defendants mailed plaintiff his copy" (Docket Entry No. 32, at pp. 2-3) (quoting Docket Entry No. 10, at p. 3 ¶ 5). Guerrero has not given any indication what argument he would have made if he had filed a response to the defendants' motion for summary judgment and he does not otherwise show that this case was dismissed in error.

Accordingly, it is **ORDERED** that his pending motion for relief under Rule 60(b) (Docket Entry No. 33) is **DENIED**.

The Clerk will provide a copy of this Order to the parties.

SIGNED at Houston, Texas, on this 6th day of August, 2018.



SIM LAKE
UNITED STATES DISTRICT JUDGE