

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 17, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ALVIN L. HEGGE, *et al.*,

Plaintiffs,

v.

JAY INSLEE, *et al.*,

Defendants.

NO: 2:20-CV-00425-RMP

ORDER DENYING MOTION

By Order filed November 20, 2020, the Court directed the District Court Clerk to transfer Mr. Alvin L. Hegge's *pro se* civil rights action to the Western District of Washington as all claims arose at the Stafford Creek Corrections Center, located in the Western District of Washington. ECF No. 3. The case in this District was closed at that time. *Id.* More than two years later, Plaintiff has filed a document titled, "Motion to Vacate Judgment Under Fed. R. Civ. Proc. 60(b) and Motion to Adjudicate Attached Civil Rights Complaint" and attachments consisting of 394 pages. ECF No. 4.

Federal Rule of Civil Procedure 60(b) permits litigants to request

1 reconsideration of a final judgment, order, or proceeding entered against them.

2 Rule 60(b) enumerates the following reasons for relief:

3 (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly
4 discovered evidence that, with reasonable diligence could not have
5 been discovered in time to move for a new trial under Rule 59(b); (3)
6 fraud ..., misrepresentation, or misconduct by an opposing party; (4)
7 the judgment is void; (5) the judgment has been satisfied, released, or
8 discharged; the judgment has been reversed or vacated; or applying it
9 prospectively is no longer equitable; or (6) any other reason justifying
10 relief from the operation of judgment.

11 Fed. R. Civ. P. 60(b). Motions under Rule 60(b) “must be made within a
12 reasonable time—and for reasons (1), (2), and (3) no more than a year after the
13 entry of the judgment or order or the date of the proceeding.” Fed. R. Civ. P.
14 60(c)(1).

15 Plaintiff’s motion is untimely under Rule 60(b)(1) through (3). This action
16 was transferred to the Western District on November 20, 2020. Plaintiff did not
17 timely move for reconsideration of that Order. Even if he had, the Court would
18 have denied such motion because all the claims arose at the Stafford Creek
19 Corrections Center in the Western District of Washington.

20 Rule 60(b)(6) is “a catchall rule for granting relief from final judgments
21 where justice so requires.” *United States for the Use & Benefit of Familian Nw.,
Inc. v. RG & B Contractors, Inc.*, 21 F.3d 952, 956 (9th Cir. 1994). Under Rule
60(b)(6), a movant “must show ‘extraordinary circumstances’ justifying the
reopening of a final judgment.” *Jones v. Ryan*, 733 F.3d 825, 833 (9th Cir. 2013)
(quoting *Gonzalez v. Crosby*, 545 U.S. 524, 535 (2005)). A Rule 60(b) motion is

1 not an avenue to relitigate the same issues and arguments upon which the Court
2 already has ruled. *See Maraziti v. Thorp*, 52 F.3d 252, 255 (9th Cir. 1995).

3 Here, Plaintiff has not shown that a mistake, inadvertence, surprise, or
4 excusable neglect has occurred, has not shown that Defendants engaged in fraud,
5 misrepresentation, or misconduct, and has not convinced the Court that it erred in
6 determining that venue was not proper in this judicial district. Therefore,
7 Plaintiff's "Motion to Vacate Judgment Under Fed. R. Civ. Proc. 60(b) and Motion
8 to Adjudicate Attached Civil Rights Complaint," ECF No. 4, is **DENIED**.

9 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
10 Order and provide a copy only to Plaintiff Hegge¹ at the Stafford Creek
11 Corrections Center. The file shall remain **CLOSED**. The Court certifies that any
12 appeal of this decision would not be taken in good faith.

13 **DATED** January 17, 2023.

14 s/ Rosanna Malouf Peterson
15 ROSANNA MALOUF PETERSON
16 Senior United States District Judge

17
18 ¹ The Court takes judicial notice of the fact that after this action was transferred to
19 the Western District of Washington, all Plaintiffs except Mr. Hegge were
20 dismissed from the action. *See Hegge, et al., v. Inslee, et al.*, No. 3:20-cv-06170-
21 BJR, ECF No. 27 (W.D. Wash Feb. 7, 2022).