

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

**Nov 25, 2024**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DARNELL MCGARY, and  
KRISTIN ELIZABETH MCGARY,  
Deceased,

Plaintiffs,

v.

JAY INSLEE, Governor, State of  
Washington, SUSAN DRYFUS,  
Department of Social and Health  
Service, BOB FERGUSON, Attorney  
General, JAMES NAGLE, Walla  
Walla County Prosecutor, JUDSON  
GRAY, Personal Representative,  
Estate of McGary,

Defendants.

NO. 2:24-CV-0135-TOR

ORDER DENYING MOTION  
UNDER 60 EXCUSABLE  
NEGLECT/FRAUD

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1           BEFORE THE COURT is Plaintiff’s Motion Under 60 Excusable  
2 Neglect/Fraud. ECF No. 25. The Court has reviewed the record and files herein  
3 and is fully informed.

4           A motion for reconsideration of a judgment may be reviewed under either  
5 Federal Rule of Civil Procedure 59(e) (motion to alter or amend a judgment) or  
6 Rule 60(b) (relief from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255,  
7 1262 (9th Cir. 1993). “Reconsideration is appropriate if the district court (1) is  
8 presented with newly discovered evidence, (2) committed clear error or the initial  
9 decision was manifestly unjust, or (3) if there is an intervening change in  
10 controlling law.” *Id.* at 1263; *United Nat. Ins. Co. v. Spectrum Worldwide, Inc.*,  
11 555 F.3d 772, 780 (9th Cir. 2009) (citation omitted). Whether to grant a motion  
12 for reconsideration is within the sound discretion of the court. *Navajo Nation v.*  
13 *Confederated Tribes and Bands of the Yakima Nation*, 331 F.3d 1041, 1046 (9th  
14 Cir. 2003).

15           Given the Court’s lengthy explanation at ECF No. 22, and Plaintiff’s failure  
16 to raise any legitimate issues, the Court **DENIES** Plaintiff’s motion.

17 **ACCORDINGLY, IT IS HEREBY ORDERED:**

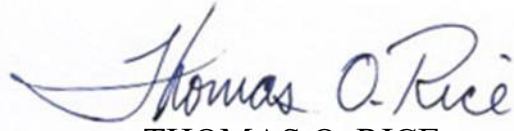
- 18           1. Plaintiff’s Motion Under 60 Excusable Neglect/Fraud, ECF No. 25, is  
19           **DENIED.**
- 20           2. The file remains **CLOSED.**

1           The District Court Executive is directed to enter this Order and furnish  
2 copies to counsel and Plaintiff at:

3           Darnell McGary  
4           P.O. Box 35163  
5           Albuquerque, NM 87110

6           DATED November 25, 2024.



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8           THOMAS O. RICE  
9           United States District Judge

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