

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID L. BELMONTE,

Plaintiff,

V.

KING COUNTY et al.,

Defendants.

CASE NO. 2:24-cv-01764-RAJ

ORDER

THIS MATTER comes before the Court on *pro se* Plaintiff David L. Belmonte (“Plaintiff”)’s Motion for Relief from Judgment.¹ Dkt. # 8. For the reasons set forth below, the Court **GRANTS** Plaintiff’s Motion.

As a preliminary matter, the Court must address that Plaintiff has filed identical motions before several other judges in this District. The timing of events in the instant matter is most similar to that in Plaintiff's case before The Honorable Tana Lin. *See generally* No. 2:24-cv-01762-TL. This Court adopts the reasoning elucidated in Judge Lin's Order. Dkt. # 11, No. 2:24-cv-01762-TL.

¹ Plaintiff is also known as Dameas Shiruk Duranzan. Dkt. # 8 at 1.

1 On January 6, 2025, the Honorable Michelle L. Peterson issued a Report and
2 Recommendation (the “Report”) advising that the Court dismiss this action without
3 prejudice. Dkt. # 4. Plaintiff states that he “never received service and/or notice of the
4 R&R denying him any meaningful opportunity to raise objections.” Dkt. # 8 at 2. He then
5 provides that he was transferred from King County Jail to Coyote Ridge Corrections Center
6 on November 19, 2024, and that the Washington Department of Corrections “lost [his] case
7 files, including all records and filings with this court.” Dkt. # 9 at ¶ 7. Finally, Plaintiff
8 notes that upon asking the law librarian to search his case history, “[t]he Librarian
9 responded they [sic] found no cases with [his] name.” *Id.* at ¶ 8.

10 Federal Rule of Civil Procedure 60(b) “permits a party to seek relief from a final
11 judgment, and request reopening of his case, under a limited set of circumstances.” *Kemp*
12 *v. United States*, 596 U.S. 528, 533 (2022) (quotation marks omitted). Among those
13 reasons, “a party may seek relief based on ‘mistake, inadvertence, surprise, or excusable
14 neglect.’” *Id.* (quoting Fed. R. Civ. P. 60(b)(1)).

15 Here, there are sufficient grounds to grant Plaintiff’s Motion. The Clerk informed
16 Plaintiff of a deficiency with his application to proceed *in forma pauperis* in a letter mailed
17 on October 30, 2024. Dkt. # 2. Plaintiff had until November 29, 2024, to correct his
18 application, but during that time, he was transferred between correctional facilities and lost
19 the pertinent case files. Accordingly, it is plausible that Plaintiff’s failure to file objections
20 to the Report may have been the result of excusable neglect.

21 The Court also finds that Plaintiff’s request to consolidate this action with *Belmonte*
22 *v. King Cnty.*, No. 2:24-cv-00518-JNW (W.D. Wash) is premature. That matter has yet to
23 commence, as Plaintiff has neither paid the filing fee nor been approved to proceed *in*
24 *forma pauperis*. See LCR 3(b)–(c), 103(d). Moreover, Plaintiff should make such a
25 request in a separate motion.

26 Based on the foregoing reasons, the Court **GRANTS** Plaintiff’s Motion for Relief
27 from Judgment. Dkt. # 8. The Court’s prior Order is **VACATED**. Dkt. # 6. Plaintiff shall
28 ORDER – 2

1 file any objections to the Report and Recommendation **within fourteen (14) days** of this
2 Order. Objections should be noted for consideration for twenty-one (21) days after they
3 are filed. Responses to objections may be filed **within fourteen (14) days** after service of
4 objections. The Clerk is instructed to transmit to Plaintiff a copy of the complete record in
5 this matter.

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7 Dated this 4th day of March, 2025.

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10 The Honorable Richard A. Jones
11 United States District Judge
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