

IN THE UTAH COURT OF APPEALS

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Jiayang Hua,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellant,	)	
	)	Case No. 20080469-CA
v.	)	
	)	
University of Utah; Vice	)	F I L E D
President David Pershing of	)	(July 17, 2008)
Academic Affairs; Sociology	)	
Department; Department Chair	)	2008 UT App 280
Frederic Rhodewalt; Sociology	)	
Graduate Committee; Graduate	)	
Director George Miller,	)	
	)	
Defendants and Appellees.	)	

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Third District, Salt Lake Department, 030915726  
The Honorable Robert K. Hilder

Attorneys: Jiayang Hua, Beijing, China, Appellant Pro Se  
Mark L. Shurtleff and Peggy E. Stone, Salt Lake City,  
for Appellees

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Before Judges Bench, Davis, and Orme.

PER CURIAM:

Jiayang Hua appeals the district court's denial of his rule 60(b) motion entered on May 1, 2008. This matter is before the court on a motion for summary disposition.

Hua asserts that the district court erred in denying his motion for relief from judgment made pursuant to rule 60(b) of the Utah Rules of Civil Procedure. A ruling on a rule 60(b) motion is a separate, appealable order. See Amica Mut. Ins. Co. v. Shettler, 768 P.2d 950, 970 (Utah Ct. App. 1989). An appeal from a rule 60(b) motion is narrow in scope and addresses only the propriety of the denial or grant of relief from judgment. See Franklin Covey Client Sales, Inc. v. Melvin, 2000 UT App 110, ¶ 19, 2 P.3d 451. An appeal from a rule 60(b) motion does not generally reach the merits of the underlying judgment from which relief was sought or provide a basis for this court to review the legal issues previously adjudicated by the district court. See id. ¶ 23. An appellate court will reverse a district court's denial of a rule 60(b) motion only when it is shown that the

district court exceeded its discretion. See Fisher v. Bybee, 2004 UT 92, ¶ 7, 104 P.3d 1198.

This court previously affirmed the dismissal of Hua's second action on the grounds of res judicata. See Hua v. University of Utah, 2004 UT App 397U, para 5. (mem.) (per curiam). The doctrine of res judicata serves to bar litigants from relitigating issues previously adjudicated or issues that could or should have been raised in an earlier action. See Office of Recovery Servs. v. V.G.P., 845 P.2d 944, 946 (Utah Ct. App. 1992). Under res judicata, the decision of a district court remains final unless it is reversed or set aside by the rendering court. See id.

This court previously ruled that Hua's claims arising from his termination from the University of Utah's Ph.D. program had been fully adjudicated and resolved. Furthermore, Hua could and should have raised all claims arising from the same facts, including any damage claims, in the first suit. See Hua, 2004 UT App 397U, para 7. Because this court previously ruled that the district court correctly applied the doctrine of res judicata, we cannot say that it abused its discretion in denying Hua's rule 60(b) motion for relief from judgment.

Hua also asserts that the district court violated his due process rights when it ordered that further attempts to relitigate this case would be considered for sanctions under rule 11 of the Utah Rules of Civil Procedure. Rule 11(c)(1)(B) provides that a court may order sanctions for a party's violation of its order. See Utah R. Civ. P. 11(c)(1)(B). Due process requires that a party receive adequate notice and an opportunity to respond before the court actually imposes sanctions. See Gildea v. Guardian Title Co., 2001 UT 75, ¶ 12, 31 P.3d 543. The record here indicates that the district court merely warned that future attempts to relitigate this matter could result in sanctions. Thus, because the district court has not imposed sanctions, the due process concerns regarding notice and an opportunity to respond never arose.

Accordingly, the district court's May 1, 2008 order is affirmed.

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Russell W. Bench, Judge

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James Z. Davis, Judge

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Gregory K. Orme, Judge