

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

David C. Lettieri v. Hostess Brands LLC

Lettieri · No. 24-3064-JWL · Decided May 8, 2026

SUMMARY

The United States District Court for the District of Kansas denied David C. Lettieri’s motion for reconsideration of the denial of his motion to reopen a previously dismissed pro se civil action. The court held that the Tenth Circuit’s affirmance foreclosed reconsideration of the dismissal in the district court and explained that further challenges should be pursued through the appellate courts.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Lungstrum
JURISDICTION	United States District Court for the District of Kansas
DECIDED	May 8, 2026
DOCKET	24-3064-JWL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of the district court's denial of his motion to reopen a civil action that had previously been dismissed for failure to state a claim and affirmed on appeal.
PRECEDENTIAL VALUE	unpublished

TOPICS

- motion for reconsideration
- appellate procedure
- final judgment rule
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- prisoner civil rights

QUESTIONS PRESENTED

- Whether the district court could reconsider the dismissal of the action after the Tenth Circuit had affirmed that dismissal.
- Whether Plaintiff's motion for reconsideration of the denial of his motion to reopen should be granted.

HOLDINGS

1. An appellate mandate forecloses the district court from reconsidering matters that were determined by the appellate court.
2. The motion for reconsideration was denied because Plaintiff was attempting to relitigate the dismissal of his complaint after the Tenth Circuit had affirmed it.

KEY QUOTATIONS

“The mandate of an appellate court forecloses the district court from reconsidering matters determined in the appellate court.”

“fails to state a claim.” (at 5)

FACTUAL BACKGROUND

Plaintiff brought a pro se civil action against Hostess Brands LLC and was granted leave to proceed in forma pauperis. The district court dismissed the complaint for failure to state an actionable claim, and the Tenth Circuit affirmed that dismissal. Plaintiff continued to challenge the dismissal through a motion to reopen and then the present motion for reconsideration, asserting that the courts had erred by failing to recognize a cause of action under New York law.

PROCEDURAL HISTORY

The district court dismissed Plaintiff's pro se complaint for failure to state a claim on August 2, 2024. The Tenth Circuit affirmed the dismissal on May 15, 2025. Plaintiff then moved to reopen the case, the district court denied that motion, and Plaintiff filed the present motion for reconsideration, which the court denied.

DISPOSITION

other

CASES CITED

- *Nguyen v. United States*, 792 F.2d 1500, 1502 (9th Cir. 1986)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS DAVID C. LETTIERI, Plaintiff, v. CASE NO. 24-3064-JWL HOSTESS BRANDS LLC, Defendant. MEMORANDUM AND ORDER Plaintiff brought this pro se civil action. The Court granted Plaintiff leave to proceed in forma pauperis.

On August 2, 2024, the Court entered a Memorandum and Order (Doc. 8) dismissing this case for failure to state a claim. Plaintiff appealed, and the Tenth Circuit affirmed the decision of this Court on May 15, 2025 (Doc. 20). Plaintiff then filed a Motion to Reopen (Doc. 21) filed on April 6, 2026, which the Court denied (Doc. 22). This matter is now before the Court on Plaintiff's Motion to Reconsider (Doc.

23) filed on May 4, 2026. While not clear, the motion apparently seeks reconsideration of this Court's denial of Plaintiff's Motion to Reopen (Doc. 21). Plaintiff's latest motion is also denied. He continues to argue that this Court was wrong to dismiss his Complaint because "plaintiff has shown there is a cause of action in which is a mistake by the courts because of not being familiar with New York state law." (Doc.

23, at 1.) Plaintiff's Complaint was dismissed because it failed to state an actionable claim. The dismissal was affirmed by the U.S. Court of Appeals for the Tenth Circuit almost a year ago. (Doc. 20.) The Tenth Circuit found that Plaintiff's Complaint "fails to state a claim." Id. at 5.

The mandate of an appellate court forecloses the district court from reconsidering matters determined in the appellate court. *Nguyen v. United States*, 792 F.2d 1500, 1502 (9th Cir. 1986). The way for Plaintiff to further challenge the dismissal of his case was not to seek reconsideration in this Court but to file a petition for rehearing in the Tenth Circuit or a petition for a writ of certiorari in the U.S. Supreme Court.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Reconsideration (Doc. 23) is denied. IT IS SO ORDERED. Dated May 8, 2026, in Kansas City, Kansas. S/ John W. Lungstrum JOHN W. LUNGSTRUM UNITED STATES DISTRICT JUDGE