

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Kevin Kovacic and Tammy Kovacic, a/k/a Tammy Lively v. Oconto
County

Kovacic v. Oconto County, No. 23-C-642 (E.D. Wis. May 1, 2026) · No. 23-C-642 · Decided May 1, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin denied Kevin and Tammy Kovacic’s motion under Federal Rule of Civil Procedure 60(b)(3) seeking relief from summary judgment and a final judgment entered after a jury verdict. The plaintiffs alleged that defendants engaged in fraud on the court through false reports, inconsistent testimony, altered deposition materials, and other misconduct. The court held that the plaintiffs failed to provide clear and convincing evidence of fraud or show that they were prevented from fully and fairly presenting their case.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	William C. Griesbach
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	May 1, 2026
DOCKET	23-C-642
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved under Federal Rule of Civil Procedure 60(b)(3) for relief from the prior summary judgment order and final judgment entered after a jury verdict, alleging fraud on the court. The motion was filed while Plaintiffs' appeal was pending.
STANDARD OF REVIEW	Rule 60(b)(3) relief requires clear and convincing evidence of fraud, misrepresentation, or misconduct that prevented the movant from fully and fairly presenting the case; such relief is extraordinary and granted only in exceptional circumstances.
PRECEDENTIAL VALUE	Unpublished federal district court order; persuasive rather than precedential.

PARTIES

Kevin Kovacic, Tammy Kovacic, a/k/a Tammy Lively v. Oconto County

TOPICS

civil procedure

appellate procedure

section 1983

qualified immunity

evidence

PRACTICE AREAS

civil procedure

civil rights

appellate procedure

remedies

evidence

QUESTIONS PRESENTED

1. Whether Plaintiffs were entitled to relief from the prior summary judgment order or final judgment under Federal Rule of Civil Procedure 60(b)(3) based on alleged fraud, misrepresentation, or misconduct by defendants.
2. Whether the district court could deny a Rule 60(b) motion while an appeal was pending.
3. Whether the alleged mischaracterization of an item in Plaintiffs' vehicle, alleged testimonial inconsistencies, blog posts, and alleged deposition-transcript modification constituted fraud that prevented Plaintiffs from fully and fairly presenting their case.

HOLDINGS

1. When an appeal is pending, a district court may entertain and deny a Rule 60 motion, but it may not grant the motion without a remand from the court of appeals.
2. A movant seeking relief under Rule 60(b)(3) must prove by clear and convincing evidence that the movant had a meritorious claim at trial, that the adverse party committed fraud, misrepresentation, or misconduct, and that the misconduct prevented the movant from fully and fairly presenting the case.
3. Plaintiffs failed to establish fraud, misrepresentation, or misconduct warranting vacatur of the summary judgment order or final judgment.
4. A Rule 60(b) motion should not be treated as a substitute for an appeal.

KEY QUOTATIONS

“However, Rule 60(b) relief is “an extraordinary remedy and is granted only in exceptional circumstances.””

“To succeed under Rule 60(b)(3), a movant must prove by clear and convincing evidence that “(1) it maintained a meritorious claim at trial; and (2) because of the fraud, misrepresentation or misconduct of the adverse party; (3) it was prevented from fully and fairly presenting its case at trial.””

FACTUAL BACKGROUND

The underlying action arose from a traffic stop that led to Kevin Kovacic's arrest and the seizure of Tammy Kovacic's legal hemp. Plaintiffs alleged that officers and governmental entities violated their constitutional rights and later alleged that defendants relied on fabricated or inaccurately described evidence, altered transcripts, and

contradictory testimony. The court found that Plaintiffs had been able to present body-camera footage, examine witnesses and experts, and cross-examine Oconto County's witnesses at trial.

PROCEDURAL HISTORY

Plaintiffs brought a 42 U.S.C. § 1983 action arising from a traffic stop, Kevin Kovacic's arrest, and the seizure of Tammy Kovacic's legal hemp. The court granted summary judgment to the individual law-enforcement defendants on qualified-immunity grounds but allowed the Monell claim against Oconto County to proceed. After a three-day trial, the jury found that the officers had not violated either Plaintiff's rights, resulting in judgment for Oconto County. Plaintiffs' trial attorneys withdrew, Plaintiffs appealed pro se, and Plaintiffs then sought Rule 60(b)(3) relief in the district court.

DISPOSITION

other

CASES CITED

- Harold Washington Party v. Cook Cnty., Ill. Democratic Party, 984 F.2d 875, 879 (7th Cir. 1993)
- Inryco, Inc. v. Metro. Eng'g Co., 708 F.2d 1225, 1230 (7th Cir. 1983)
- Moore v. Johnson, No. 3:15-CV-01095-DGW, 2018 WL 5013821, at *2 (S.D. Ill. Oct. 16, 2018)
- Drs. Nursing & Rehab. Ctr. v. Sebelius, 613 F.3d 672, 677 (7th Cir. 2010)
- Chi. Downs Ass'n, Inc. v. Chase, 944 F.2d 366, 370 (7th Cir. 1991)
- Simons v. Gorsuch, 715 F.2d 1248, 1252 (7th Cir. 1983)
- Walsh v. McCain Foods Ltd., 81 F.3d 722, 726 (7th Cir. 1996)
- Wickens v. Shell Oil Co., 620 F.3d 747, 759 (7th Cir. 2010)
- Ty Inc. v. Softbelly's Inc., 353 F.3d 528, 536–37 (7th Cir. 2003)
- McGraw v. City of Chicago, No. 01 C 9575, 2006 WL 8461423, at *3 (N.D. Ill. June 1, 2006)
- Harris v. County. of Cook, 202 F.3d 273 (7th Cir. 1999)
- Lonsdorf v. Seefeldt, 47 F.3d 893, 897 (7th Cir. 1995)
- Square Constr. Co. v. Wash. Metro. Area Transit Auth., 657 F.2d 68, 71 (4th Cir. 1981)