

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Frederick Wayne Smith v. John Doe #1, et al.

No. 1:25-cv-00109-KES-EPG · No. No. 1:25-cv-00109-KES-EPG · Decided June 23, 2025

OPINION

(PC) Smith v. John Doe 1

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 FREDERICK WAYNE SMITH, No. 1:25-cv-00109-KES-EPG

12 Plaintiff,

13 v. ORDER DENYING PLAINTIFF’S MOTION

TO AMEND THE JUDGMENT

14 JOHN DOE #1, et al., Docs. 15, 16 15 Defendants. 16 17 18 On January 27, 2025, plaintiff
filed this civil rights action, along with a motion to proceed 19 in forma pauperis. Docs. 1, 2. On
January 29, 2025, the assigned magistrate judge issued 20 findings and recommendations
recommending that plaintiff’s motion to proceed in forma 21 pauperis be denied. Doc. 8. The
magistrate judge found that plaintiff had sufficient funds in his 22 trust account to pay the \$405.00
filing fee for this action. Id. The findings and recommendations 23 were served on plaintiff and
contained notice that any objections thereto were to be filed within 24 thirty days following
service. Id. On February 7, 2025, plaintiff filed a notice indicating that he 25 intended to pay the
filing fee. Doc. 9. Plaintiff filed another motion to proceed in forma pauperis 26 on February 21,
2025. Doc. 10. This second application showed he had the sum of \$3,687.76 in 27 his trust
account as of January 30, 2025, and had an average monthly balance of \$5,466.14 in his 28 trust
account for the six months prior to that date. Id. at 2. Notwithstanding plaintiff’s filing 1
indicating his intent to pay the filing fee (Doc. 9), the Court never received such payment. See 2
docket. 3 The findings and recommendations were adopted in full on March 7, 2025 and plaintiff
4 was directed to pay the filing fee in full within thirty days. Doc. 11. The Court warned plaintiff 5
that failure to do so would result in the dismissal of the action without prejudice. Id. at 2. 6
Plaintiff did not pay the filing fee and the Court dismissed the action without prejudice on
7 April 21, 2025. Doc. 13. Judgment was entered the same day. Id. On May 2, 2025, plaintiff’s
8 motion to amend the judgment was docketed (Doc. 15) followed by a further response on June
4, 9 2025 (Doc. 16). 10 Relief from an order issuing a final judgment may be granted under

Federal Rule of Civil

11 Procedure 59(e) or 60(b). See, e.g., *Langley v. Well Path Med.*, No. 2:19-cv-01022-TLN-DMC, 12 2020 WL 243228, at *1 (E.D. Cal. Jan. 16, 2020). If a motion for such relief is filed within the 13 time provided for by Rule 59(e), it should be considered as a motion to alter or amend judgment 14 pursuant to Rule 59(e).¹ See *Am. Ironworks & Erectors, Inc. v. N. Am. Const. Corp.*, 248 F.3d 15 892, 888-89 (9th Cir. 2001). Otherwise, the motion is treated as a Rule 60(b) motion for relief 16 from a judgment or order. *Id.* Additionally, when filing a motion for reconsideration, Local Rule 17 230(j) requires a party to show “what new or different facts or circumstances are claimed to exist 18 which did not exist or were not shown upon such prior motion, or what other grounds exist for the 19 motion.” Local Rule 230(j). 20 The mailbox rule provides that plaintiff’s motion shall be deemed filed on the date he 21 signed and delivered it to prison authorities for forwarding to the court clerk. See *Douglas v. 22 Noelle*, 567 F.3d 1103, 1107 (9th Cir. 2009) (mailbox rule applies to § 1983 suits filed by pro 23 se prisoners). Plaintiff’s motion for relief is labeled as a request to amend the judgment and he 24 signed and dated it on April 28, 2025, which is within 28 days of the entry of judgment on

25 April 21, 2025. Thus, plaintiff’s motion for relief will be considered under Rule 59(e).

26 “Since specific grounds for a motion to amend or alter are not listed in [Rule 59(e)], the 27

1 Rule 59(e) provides that “[a] motion to alter or amend a judgment must be filed no later than 28 28 days after the entry of the judgment.” Fed. R. Civ. P. 59(e). 1 | district court enjoys considerable discretion in granting or denying the motion.” *Allstate Ins. Co. 2 | v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011). Generally, there are “four basic grounds upon 3 | which a Rule 59(e) motion may be granted: (1) if such motion is necessary to correct manifest 4 | errors of law or fact upon which the judgment rests; (2) if such motion is necessary to present 5 || newly discovered or previously unavailable evidence; (3) if such motion is necessary to prevent 6 | manifest injustice; or (4) if the amendment is justified by an intervening change in controlling 7 | law.” *Id.* A motion for reconsideration under Rule 59(e) is an “extraordinary remedy, to be used 8 || sparingly.” *Jd.* 9 In his May 2, 2025 filing, plaintiff does not identify any basis sufficient to grant relief 10 under Rule 59(e), and his filing is unclear and disjointed. See generally Doc. 15. Nor has he paid 11 | the mandatory filing fee to permit the action to move forward. In his subsequent filing in support 12 | of his motion, plaintiff contends that prison staff is destroying documents, but he fails to explain 13 || why he is unable to pay the filing fee when the record reflects that he has sufficient funds to do 14 | so. See generally Docs. 6, 10, 16. He also provides a copy of an administrative segregation unit 15 || placement notice from 2010 in which he was placed in administrative segregation for his own 16 | safety after other inmates attacked him. /d. at 3. However, an incident from 2010 is not relevant 17 | to the mandatory requirement that plaintiff pay the filing fee. 18 As plaintiff did not pay the filing fee despite having had sufficient funds to do so, and as 19 | plaintiff has not identified a basis for relief under Rule 59(e), plaintiff’s motion to amend the 20 | judgment is DENIED. 21

92 | IT IS SO ORDERED. _

23 Dated: _ June 23, 2025 4h

UNITED STATES DISTRICT JUDGE

25 26 27 28

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/united-states-district-court-for-the-eastern-district-of-california-united-states-district-court-for/2025/frederick-wayne-smith-v-john-doe-1-et-al-368qegi0>