

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Sherri Strole v. Mark Wirth, et al.

Strole · No. CV-24-08211-PCT-DJH · Decided April 2, 2026

SUMMARY

The United States District Court for the District of Arizona denied Sherri Strole’s motion to waive fees, reinstate and consolidate her case, and expand or assign legal counsel. The court held that Plaintiff failed to establish grounds for relief from judgment under Federal Rule of Civil Procedure 60(b), and that consolidation with state-court cases was unavailable; the case therefore remained closed.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	United States District Court for the District of Arizona
DECIDED	April 2, 2026
DOCKET	CV-24-08211-PCT-DJH
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 60(b) to reinstate a civil-rights action that had been closed for failure to prosecute, and also sought consolidation, waiver of fees and costs, and appointment or assignment of counsel.
STANDARD OF REVIEW	Relief from a final judgment under Rule 60(b) requires the moving party to establish grounds for relief; the moving party bears the burden of demonstrating that such relief is appropriate.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation or stated precedential designation.

TOPICS

- civil procedure
- joinder
- costs

PRACTICE AREAS

- civil procedure
- federal civil rights

QUESTIONS PRESENTED

1. Whether Plaintiff established a basis for relief from the judgment under Federal Rule of Civil Procedure 60(b).
2. Whether the federal court could consolidate this closed federal action with cases pending in state court or with other federal cases.
3. Whether Plaintiff's requests to waive fees and costs and appoint or assign counsel remained viable after denial of reinstatement.

HOLDINGS

1. Because Plaintiff filed her motion for reinstatement more than ten days after entry of judgment, the request was properly treated as a motion for relief from judgment under Federal Rule of Civil Procedure 60(b).
2. Plaintiff did not make the required showing for relief from the judgment under any provision of Rule 60(b), so reinstatement was denied.
3. Federal Rule of Civil Procedure 42(a) does not authorize consolidation of a federal case with a case pending in state court, and consolidation with other federal cases was unavailable because this action was closed and would remain closed.
4. The requests to waive fees and costs and appoint or assign counsel were denied as moot because the case would not be reinstated.

KEY QUOTATIONS

“Rule 60(b) permits a district court to relieve a party from a final order or judgment on the following grounds: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud or misrepresentation of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied or discharged; or (6) any other reason justifying relief.” (at 1)

“Simply put, Plaintiff has not made the proper showing to establish grounds for relief under any of the above circumstances.” (at 2)

“It does not enable the Court to consolidate its federal court case with a case filed in state court, even if there is common parties and subject matter.” (at 2)

FACTUAL BACKGROUND

Plaintiff's case had been closed for failure to prosecute after she allegedly was unable to satisfy service requirements. She later claimed that the dismissal was erroneous and that clerks had denied return of summonses with conformed copies, but offered no further explanation or proof and did not explain the approximately six-month delay in seeking reinstatement. She also sought to consolidate this federal action with several state-court cases and other cases in the district.

PROCEDURAL HISTORY

The action was closed on August 4, 2025, for failure to prosecute. On December 3, 2025, Plaintiff filed a motion seeking relief from the judgment, consolidation of this action with several state and federal cases, waiver of fees

and costs, and counsel. The court treated the reinstatement request as a Rule 60(b) motion because it was filed more than ten days after entry of judgment, denied all requested relief, and ordered that the matter remain closed.

DISPOSITION

dismissed

CASES CITED

- American Ironworks & Erectors, Inc. v. North Am. Constr. Corp., 248 F.3d 892, 898–99 (9th Cir. 2001)
- Bailey v. United States, 250 F.R.D. 446, 448 (D. Ariz. 2008)
- O’Donahue v. Tuugiboss Trans Inc., 2024 WL 1533612, at *2 (W.D. Wash. 2024)

OPINION

Strole

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Sherri Strole, No. CV-24-08211-PCT-DJH 10 Plaintiff, ORDER 11 v. 12 Mark Wirth, et al., 13 Defendants. 14 15 On December 3, 2025, Plaintiff Sherri Strole (“Plaintiff”) filed a Motion for Waiver 16 of All Fees and Costs (including reproduction costs for case files, transcripts, and 17 recordings), and Motion to Reinstate Case and Consolidate and Expand or Assign Legal 18 Counsel (Doc. 19). 19 Plaintiff’s case was closed for failure to prosecute on August 4, 2025. 20 (See Doc. 18). Plaintiff now requests the reinstatement of her case, claiming that she was 21 “unable to meet the traditional and restricted (by clerks) service requirement that led to 22 dismissal.” (Doc. 19 at 2). Because Plaintiff submitted her motion for reinstatement more 23 than ten days after entry of judgment, the Court must treat it as a motion for relief from 24 judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. See American 25 Ironworks & Erectors, Inc. v. North Am. Constr. Corp., 248 F.3d 892, 898–99 (9th Cir. 26 2001). Rule 60(b) permits a district court to relieve a party from a final order or judgment 27 on the following grounds: (1) mistake, inadvertence, surprise, or excusable neglect; (2) 28 newly discovered evidence; (3) fraud or misrepresentation of an adverse party; (4) the 1 judgment is void; (5) the judgment has been satisfied or discharged; or (6) any other reason 2 justifying relief. Fed. R. Civ. P. 60(b). 3 Although Plaintiff states that the dismissal of her case was “in error” and the “clerks 4 denied return of summons with conformed copies in order to facilitate traditional service,” 5 she provides no further explanation or proof, nor does she explain why she was waited 6 months after her case was closed to bring this Motion. (See Doc. 19 at 2). Simply put, 7 Plaintiff has not made the proper showing to establish grounds for relief under any of the 8 above circumstances. Bailey

v. United States, 250 F.R.D. 446, 448 (D. Ariz. 2008) (“A party seeking relief from the judgment has the burden of demonstrating such relief is appropriate.”) Plaintiff also seeks to consolidate several state court cases into this matter. (See Doc. 19 at 5–6). However, this request is futile. Fed. Rule Civ. Proc. 42(a) only permits consolidation of cases “before the court.” *Id.* (emphasis added). It does not enable the Court to consolidate its federal court case with a case filed in state court, even if there is common parties and subject matter. See *O’Donahue v. Tuugiiboss Trans Inc.*, 2024 WL 16 1533612, *2 (W.D. Wash. 2024); 9A C. Wright & A. Miller, *Federal Practice and Procedure* § 2382 (3d ed. 2023) (“[A] court may not consolidate an action pending in federal court with an action pending in state court.”). Her requests to consolidate other cases in this District into this matter (see Doc. 19 at 5–6), likewise, fails because this case is closed and will remain closed. 21 Lastly, Plaintiff’s requests to waive all fees and appoint counsel are denied as moot 22 because her case will not be reinstated. 23 Accordingly, 24 /// 25 /// 26 /// 27 /// 28 /// 1 IT IS ORDERED that Plaintiff’s Motion for Waiver of All Fees and Costs 2|| (including reproduction costs for case files, transcripts, and recordings), and Motion to ☐☐ Reinstate Case and Consolidate and Expand or Assign Legal Counsel (Doc. 19) is 4|| DENIED. This matter shall remain closed. 5 Dated this 2nd day of April, 2026. 6 8 norable’ Diangd. Huntetewa 9 United States District Judge 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 _3-