

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Holmes v. Cardoza

Holmes · No. 2:24-cv-2190-WBS-JDP (P) · Decided April 24, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends denying plaintiff Dominique Holmes’s motion to reopen her closed 42 U.S.C. § 1983 action under Federal Rule of Civil Procedure 60(b). The court concludes that plaintiff has not shown newly discovered evidence, clear error, fraud, misconduct, or another basis for relief from the prior dismissal for failure to pay the filing fee and failure to prosecute.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 24, 2025
DOCKET	2:24-cv-2190-WBS-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to reopen a closed prisoner civil-rights action under Federal Rule of Civil Procedure 60(b). The magistrate judge issued findings and recommendations recommending denial of the motion.
STANDARD OF REVIEW	Relief from a final judgment or order under Federal Rule of Civil Procedure 60(b); reconsideration is available only on the rule’s specified grounds and, for Rule 60(b)(4)-(6), within a reasonable time.
PRECEDENTIAL VALUE	Nonprecedential findings and recommendations; final status unknown from the source text
PARTIES	Dominique Holmes v. N. Cardoza, et al.

TOPICS

- motion for reconsideration
- civil procedure
- prisoners rights
- section 1983
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff established a basis under Federal Rule of Civil Procedure 60(b) to reopen the previously dismissed action.
2. Whether plaintiff's failure to receive court mail excused her failure to respond to the order to show cause and justified relief from the dismissal.

HOLDINGS

1. Plaintiff failed to establish any basis for relief under Rule 60(b) because she did not identify newly discovered evidence, clear error, fraud, misrepresentation, misconduct, or another circumstance warranting extraordinary relief; the motion to reopen should therefore be denied.

KEY QUOTATIONS

“The interests of finality and the conservation of judicial resources also do not warrant the use of the extraordinary remedy plaintiff seeks.” (at 2)

“Accordingly, plaintiff has failed to establish any basis for relief under Rule 60(b) from the court’s dismissal order and judgment, and I recommend that her motion be denied.” (at 2-3)

FACTUAL BACKGROUND

Plaintiff, a state inmate proceeding pro se, filed a § 1983 action concerning alleged denial of adequate medical care and cruel and unusual punishment. She listed a correctional-facility post-office-box address, did not respond to an order to show cause, and the action was dismissed for failure to pay the filing fee and failure to prosecute. She later moved to reopen, claiming that prison staff may have intentionally failed to deliver her mail, although she remained at the same facility and the docket reflected a physical facility address.

PROCEDURAL HISTORY

Plaintiff filed a pro se 42 U.S.C. § 1983 action alleging violations of her Eighth and Fourteenth Amendment rights. After plaintiff failed to pay the filing fee, failed to prosecute, and failed to comply with a show-cause order, the magistrate judge recommended dismissal, and the district court adopted that recommendation in November 2024. Plaintiff moved to reopen the case in February 2025, asserting that prison mail-delivery problems prevented her from receiving court mail. The magistrate judge recommended denying the motion.

DISPOSITION

other

CASES CITED

- United States v. Alpine Land & Reservoir Co., 984 F.2d 1047, 1049 (9th Cir. 1993)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)

- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Holmes v. Cardoza

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 DOMINIQUE HOLMES, Case No. 2:24-cv-2190-WBS-JDP (P) 12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 N. CARDOZA, et al., 15 Defendants. 16 17 18 Plaintiff is a state inmate proceeding pro se in this closed 42 U.S.C. § 1983 civil rights 19 action, in which she alleged defendants violated her Eighth and Fourteenth Amendment rights to 20 adequate health care and to be free from cruel and unusual punishment. ECF No. 1. In her 21 complaint, she listed her address as Stanton Correctional Facility's P.O. Box. Id. at 1. Two 22 months after plaintiff filed her complaint, I ordered plaintiff to show cause why the case should 23 not be dismissed for failure to pay the filing fee, failure to prosecute, and failure to comply with 24 court orders. ECF No. 5. 25 Plaintiff did not respond, causing me to recommend that the action be dismissed. ECF

26 No. 6 at 1. I acknowledged that it appeared from the docket that the order to show cause was 27 returned as undeliverable, but I explained that plaintiff was properly served under local rules. Id. 28 1 at 1 n.1. I also noted that it was plaintiff's responsibility to keep the court apprised of her current 2 address. Id. As such, I recommended that plaintiff's action be dismissed for failure to pay the 3 filing fee, failure to prosecute, and failure to comply with court orders. Id. at 3. 4 With no objections from plaintiff, in November 2024, the district court adopted my 5 findings and recommendations, dismissing the action for failure to pay the filing fee and for 6 failure to prosecute. ECF No. 7. 7 Three months later, in February 2025, plaintiff filed the instant motion to reopen the case. 8 ECF No. 11. She acknowledges that her case had been closed because her mail was not being 9 delivered to her, and she contends that it was not her fault she did not receive mail, speculating 10 that prison staff were purposefully not delivering mail to her. Id. Notably, she is still housed at 11 Stanton Correctional Facility, id., but the docket now reflects the physical address of the facility 12 instead of a P.O. Box. Having considered the record and applicable law, I recommend that 13 plaintiff's motion to reopen be denied. 14 Under Rule 60(b), the court may grant reconsideration of a final judgment and any order 15 based on: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence 16 which, with reasonable diligence, could not have been discovered within ten days of entry of 17 judgment; and (3) fraud, misrepresentation, or misconduct of an opposing party. See Fed. R. Civ. 18 P. 60(b)(1)-(3). A motion for reconsideration on any of these grounds must be brought within 19 one year of entry of judgment or the order being challenged. See Fed. R. Civ. P. 60(c)(1). Under

20 Rule 60(b), the court may also grant reconsideration if: (1) the judgment is void; (2) the
21 judgement has been satisfied, released, or discharged, an earlier judgment has been reversed or
22 vacated, or applying the judgment prospectively is no longer equitable; and (3) any other
23 reason that justifies relief. See Fed. R. Civ. P. 60(b)(4)-(6). A motion for reconsideration on any
of 24 these grounds must be brought “within a reasonable time.” Fed. R. Civ. P. 60(c)(1). 25
Plaintiff has not identified any authority providing a basis for reopening this case, and I 26 find no
basis to do so. Her motion fails to present newly discovered evidence that would change 27 the
outcome of the court’s ruling, fails to show that the court committed clear error, and fails to 28
establish fraud, misrepresentation, or misconduct of either the opposing party or of this court. 1 |
The interests of finality and the conservation of judicial resources also do not warrant the use of 2 |
the extraordinary remedy plaintiff seeks. See *United States v. Alpine Land & Reservoir Co.*, 984 3
| F.2d 1047, 1049 (9th Cir. 1993). 4 Additionally, although it appears that plaintiff may have
provided the court with an 5 | improper address, which may have resulted in the order
recommending case closure being 6 | returned to the court, it is plaintiff’s responsibility to provide
a proper address. See Local Rule 7 | 183(b). Accordingly, plaintiff has failed to establish any basis
for relief under Rule 60(b) from 8 | the court’s dismissal order and judgment, and I recommend
that her motion be denied. 9 Accordingly, it is RECOMMENDED that plaintiff’s motion to reopen
this action, ECF 10 | No. 11, be DENIED. 11 These findings and recommendations are submitted
to the United States District Judge 12 | assigned to the case, pursuant to the provisions of 28
U.S.C. § 636(b)(). Within fourteen days 13 | after being served with these findings and
recommendations, any party may file written 14 | objections with the court and serve a copy on all
parties. Such a document should be captioned 15 | “Objections to Magistrate Judge’s Findings and
Recommendations.” Any response to the 16 | objections shall be served and filed within fourteen
days after service of the objections. The 17 | parties are advised that failure to file objections
within the specified time may waive the right to 18 || appeal the District Court’s order. *Turner v.*
Duncan, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez* 19 | *v. Yist*, 951 F.2d 1153 (9th Cir. 1991). 20
IT IS SO ORDERED. 22 (q Sty - Dated: _ April 24, 2025 q———

23 JEREMY D., PETERSON

UNITED STATES MAGISTRATE JUDGE

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