

**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

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. 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 judgment 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 reason 23 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)(1). 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 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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