

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Khan v. SAP Labs, LLC

No. 18-cv-07490-BLF (N.D. Cal. Mar. 6, 2023) · No. 18-cv-07490-BLF · Decided March 6, 2023

OPINION

Khan v. SAP Labs, LLC

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 SAN JOSE DIVISION

7 8 MUHAMMAD KHAN, Case No. 18-cv-07490-BLF 9 Plaintiff,

ORDER DENYING PLAINTIFF'S

10 v. MOTION TO ALTER OR AMEND

JUDGMENT

11 SAP LABS, LLC; JENNY LE; and

SANJAY SHIROLE, [Re: ECF 181]

12 Defendants. 13

14 I. INTRODUCTION

15 Plaintiff Muhammad Khan ("Khan") moves to alter or amend the August 30, 2022 16 judgment entered for Defendants SAP Labs, LLC ("SAP"), Sanjay Shirole ("Shirole"), and Jenny 17 Le ("Le"). Khan claimed that he was subjected to discrimination, harassment, retaliation, and 18 other unlawful treatment while employed by SAP and supervised by Shirole. Motion practice 19 took several years, in part because Khan filed and litigated this action from prison after being 20 convicted of arson, specifically, setting fire to Shirole's home while Shirole and his family were 21 inside. Khan requested and was granted numerous filing extensions based on his status as a pro se 22 and incarcerated litigant. Ultimately, the Court dismissed all but one of Khan's claims on the 23 merits and granted summary judgment on the remaining claim, which was asserted against SAP. 24 The Court initially granted summary judgment for SAP on May 20, 2022 ("Vacated MSJ Order"), 25 but it later vacated that order based on Khan's assertion that he was not given an adequate 26 opportunity to oppose SAP's motion. After considering multiple late-filed submissions by Khan, 27 the Court once again granted summary judgment for SAP on August 30, 2022 ("Final MSJ 1 Khan now seeks reconsideration of the Final MSJ Order and relief from judgment pursuant 2 to Federal Rules of Civil Procedure 59(e) and 60. SAP opposes the motion, which has been fully 3 briefed. The Court finds the motion suitable for determination without oral

argument. See Civ. 4 L.R. 7-1(b). 5 The motion is DENIED for the reasons discussed below.

6 II. MOTION FOR RELIEF UNDER RULE 59(e)

7 A. Legal Standard 8 Under Federal Rule of Civil Procedure 59(e), a party may file a motion to
alter or amend 9 judgment within 28 days after entry of the judgment. See Fed. R. Civ. P. 59(e).
“Although Rule 10 59(e) permits a district court to reconsider and amend a previous order, the
rule offers an 11 extraordinary remedy, to be used sparingly in the interests of finality and
conservation of judicial 12 resources.” *Kona Enterprises, Inc. v. Est. of Bishop*, 229 F.3d 877, 890
(9th Cir. 2000) (internal 13 quotation marks and citation omitted). “A district court generally
should not grant a Rule 59(e) 14 motion in the absence of newly discovered evidence, clear error,
or an intervening change in the 15 controlling law.” *Wells Fargo Bank, N.A. v. Mahogany
Meadows Ave. Tr.*, 979 F.3d 1209, 1218 16 (9th Cir. 2020) (internal quotation marks and citation
omitted). 17 B. Discussion 18 Khan does not assert the existence of newly discovered evidence or
an intervening change 19 in controlling law. Instead, he asserts numerous procedural and
substantive errors by the Court. 20 SAP argues that Khan has not identified any clear error by the
Court that would entitle him to 21 relief. SAP also argues that Khan’s motion is untimely and that
as a result the Court lacks 22 authority to grant relief under Rule 59(e). Khan in turn argues that
SAP’s opposition is untimely 23 and should not be considered. The Court first addresses the
timeliness of Khan’s motion, then the 24 timeliness of SAP’s opposition, and finally the merits of
the motion. 25 1. Khan’s Motion is Timely 26 SAP argues that Khan’s motion is untimely because
it was filed more than 28 days after 27 entry of judgment. Judgment was entered on August 30,
2022. See Jud., ECF 179. Khan’s

1 October 6, 2022 (37 days after entry of judgment). See Mot., ECF 181. Under these
2 circumstances, SAP argues, the Court lacks authority to consider the motion. See *Carter v.
United 3 States*, 973 F.2d 1479, 1488 (9th Cir. 1992) (“[T]he district court has no discretion to
consider a 4 late rule 59(e) motion.”). 5 SAP ignores the mailbox rule, under which a prisoner is
deemed to have filed a document 6 “at the time [the prisoner] delivered it to the prison authorities
for forwarding to the court clerk.” 7 *Houston v. Lack*, 487 U.S. 266, 276 (1988) (establishing
mailbox rule for prisoner’s filing of 8 appeal); see also *Douglas v. Noelle*, 567 F.3d 1103, 1108-09
(9th Cir. 2009) (extending *Houston* 9 mailbox rule to prisoner’s filing of complaint in § 1983
action). The proof of service attached to 10 Khan’s motion states that Khan gave the motion to jail
officials for mailing on September 25, 11 2022, which was 26 days after entry of judgment. See
Mot. POS. In one of his three replies, Khan 12 states that he handed his motion to jail staff on
September 27, 2022, which was 28 days after entry 13 of judgment. See Reply, ECF 185. Khan’s
motion therefore appears to be timely under the 14 mailbox rule and is considered on the merits.
15 2. SAP’s Opposition is Untimely but will be Considered 16 Khan asserts that SAP’s opposition
is “belated.” See Reply, ECF 185. The Court agrees 17 that SAP’s opposition is untimely. Khan’s
motion to alter or amend judgment was docketed on

18 October 6, 2022, and SAP received notice on that date through the Court’s Electronic Case

Filing

19 system. Under this District's Civil Local Rules, SAP's opposition was due within 14 days, by 20 October 20, 2022. See Civ. L.R. 7-3(a). SAP's opposition was not filed until November 2, 2022 21 and therefore is untimely. 22 The Court observes that when docketing Khan's motion to alter or amend judgment, court 23 staff entered the due date for responses as November 3, 2022, which was 28 days after the motion 24 was docketed instead of the 14 days mandated by the Civil Local Rules. See Docket Entry, ECF 25 181. SAP may have relied on that docket entry when it filed opposition on November 2, 2022. 26 Based on the confusion regarding SAP's deadline to file, the Court accepts SAP's late opposition 27 in the exercise of its discretion. To the extent Khan objects to the SAP's opposition as untimely, 1 3. Khan does not Establish Clear Error under Rule 59(e) 2 Khan's motion contains 27 enumerated paragraphs setting forth asserted errors by the 3 Court. Paragraphs 1-4 raise four claimed procedural errors: transmitting Khan's "preemptive" 4 appeal to the Court of Appeals when it was filed, failing to send Khan a copy of the Vacated MSJ 5 Order, failing to grant Khan additional extensions of time, and accepting an oversize reply brief 6 from SAP. 7 The transmission of Khan's "preemptive" appeal to the Court of Appeals was a ministerial 8 task performed by the Clerk, which Khan has not established was in error. The docket reflects that 9 Khan was served with the Court's Vacated MSJ Order when it issued, but it is irrelevant whether 10 the Vacated MSJ Order actually reached him, as the order had no legal effect once it was vacated 11 and the Court addressed all relevant evidence and arguments in its Final MSJ Order. The Court's 12 decisions not to grant Khan additional extensions of time to brief the summary judgment motion 13 was well within its discretion. Finally, SAP's reply was not oversize, but in any event the Court 14 had discretion to consider it, just as the Court had discretion to accept Khan's late-filed opposition 15 to SAP's motion for summary judgment. None of these asserted procedural errors warrants 16 reconsideration of the Final MSJ Order as requested by Khan.

17 Paragraphs 5-27 boil down to Khan's disagreement with the Court's determinations 18 regarding the admissibility and materiality of the record evidence. For example, in Paragraphs 12 19 and 16, Khan complains that the Court improperly relied on his sworn statement in his DFEH 20 complaint that his physician placed him on disability leave from June 1, 2015 to December 1, 21 2015. Khan argues that the Court erred by admitting that statement into evidence and by failing to 22 credit Khan's declaration statement to the contrary. 23 The Court devoted several pages of its Final MSJ Order to the admissibility of Khan's 24 statement that his physician placed him on disability leave, and the effect of Khan's conflicting 25 declaration. See Final MSJ Order at 12-14. That Khan disagrees with the Court's analysis does 26 not warrant reconsideration, particularly where the Court stated expressly that other evidence 27 submitted by SAP was sufficient to meet SAP's burden on summary judgment even if the 1 The other paragraphs of Khan's motion similarly dispute the Court's determinations 2 regarding the admissibility and materiality of the record evidence, rehashing arguments previously 3 presented

to and rejected by the Court. Having carefully considered all of Khan's asserted 4 grounds for relief, the Court finds that Khan has not established any error by the Court, let alone 5 clear error warranting the "extraordinary remedy" of relief under Rule 59(e). 6 Khan's motion for relief under Rule 59(e) is DENIED.

7 III. MOTION FOR RELIEF UNDER RULE 60

8 A. Legal Standard 9 Under Federal Rule of Civil Procedure 60(b), a court may grant relief from a judgment or 10 order "only upon a showing of (1) mistake, surprise, or excusable neglect; (2) newly discovered 11 evidence; (3) fraud; (4) a void judgment; (5) a satisfied or discharged judgment; or (6) 12 extraordinary circumstances which would justify relief." Sch. Dist. No. 1J, Multnomah Cnty., Or. 13 v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993) (internal quotation marks and citation omitted); 14 see also Fed. R. Civ. P. 60(b). 15 B. Discussion 16 Khan does not specify which provision or provisions of Rule 60(b) he seeks to apply here. 17 Because none of his arguments could be construed as seeking relief under subsections 1-5, the 18 Court understands Khan to seek relief under subsection 6, which requires a showing of 19 "extraordinary circumstances which would justify relief." For the reasons discussed in section II, 20 above, the Court finds that Khan has failed to make this showing. 21 The Court has granted Khan repeated continuances in this case to give him every 22 opportunity to oppose Defendants' motions, even going so far as to vacate its first summary 23 judgment order in order to review Khan's late submissions before issuing its final summary 24 judgment order. The Court has made numerous substantive rulings throughout the case, 25 explaining its reasoning in each. At the end of the day, Khan simply disagrees with the Court's 26 rulings. That disagreement does not provide a basis for granting relief from judgment. 27 Khan's motion for relief under Rule 60(b) is DENIED.

1 IV. ORDER

2 (1) Plaintiff Khan's motion to alter or amend the judgment is DENIED. 3 (2) This order terminates ECF 181. 4 5 Dated: March 6, 2023

BETH LABSON FREEMAN

7 United States District Judge 8 9 10 11 12 15 16 it Z 18 19 20 21 22 23 24 25 26 27 28