

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Moreno v. Perkins Will, Inc., et al.

Moreno · No. 20-cv-02082-WHO · Decided February 26, 2025

SUMMARY

The United States District Court for the Northern District of California denied Jose Rigoberto Moreno's request to clarify an order denying his motion to reinstate previously dismissed excessive force claims. The court explained that relief under Federal Rule of Civil Procedure 60(b)(1) or (b)(2) was untimely because it was sought more than one year after final judgment, and that relief under Rule 60(b)(6) was not justified by extraordinary circumstances. The order was dated February 26, 2025.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	William H. Orrick
JURISDICTION	United States District Court for the Northern District of California
DECIDED	February 26, 2025
DOCKET	20-cv-02082-WHO
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff moved for clarification of an order denying his motion for relief from final judgment and seeking reinstatement of previously dismissed claims.
STANDARD OF REVIEW	Relief under Rule 60(b)(1) and (b)(2) is subject to Rule 60(c)(1)'s one-year deadline; relief under Rule 60(b)(6) must be sought within a reasonable time and requires extraordinary circumstances.
PRECEDENTIAL VALUE	Unknown; district court order with no reported citation
PARTIES	Jose Rigoberto Moreno v. Perkins Will, Inc., et al.

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court should clarify or reconsider its prior denial of Moreno's motion for relief from judgment.
2. Whether Moreno's motion under Rule 60(b)(1) or Rule 60(b)(2) was timely when filed more than three years after entry of final judgment.
3. Whether Moreno demonstrated extraordinary circumstances and filed within a reasonable time as required for relief under Rule 60(b)(6).

HOLDINGS

1. A motion for relief from judgment based on mistake or newly discovered evidence under Rule 60(b)(1) or Rule 60(b)(2) must be filed no more than one year after entry of the judgment, and Moreno's motion filed more than three years after judgment was legally untimely.
2. Relief under Rule 60(b)(6) must be sought within a reasonable time and requires extraordinary, unique, and compelling circumstances preventing timely action; Moreno did not satisfy that standard.

KEY QUOTATIONS

"The rule is to be utilized only where extraordinary circumstances have prevented a party from taking timely action to prevent or correct an erroneous judgment." (at 2)

FACTUAL BACKGROUND

Moreno's claims were dismissed with prejudice after he failed to amend his complaint adequately and failed to prosecute his claims. Final judgment was entered on January 7, 2021. Moreno sought relief from judgment more than three years later, citing health problems and medical treatment occurring between 2021 and 2024, but did not establish circumstances preventing him from seeking relief earlier.

PROCEDURAL HISTORY

The court dismissed Moreno's claims with prejudice and entered final judgment on January 7, 2021. More than three years later, Moreno moved under Federal Rule of Civil Procedure 60(b)(1), (b)(2), and (b)(6) to reinstate his claims. The court denied that motion because the Rule 60(b)(1) and (b)(2) request was untimely and Moreno had not shown extraordinary circumstances or a reasonable basis for the delay under Rule 60(b)(6). Moreno then filed a motion asking the court to clarify its denial order, which the court resolved by reaffirming its prior ruling.

DISPOSITION

other

CASES CITED

- U.S. v. Alpine Land & Reservoir Co., 984 F.2d 1047 (9th Cir. 1993)

OPINION

Moreno v. Brett Kelly

PER CURIAM.

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2 UNITED STATES DISTRICT COURT

3 NORTHERN DISTRICT OF CALIFORNIA

4 5 JOSE RIGOBERTO MORENO, Case No. 20-cv-02082-WHO 6 Plaintiff,

ORDER RESOLVING MOTION FOR

7 v. CLARIFICATION

8 PERKINS WILL, INC., et al., Re: Dkt. Nos. 46, 47, 49, 50, 51, 55, 56, 57 Defendants. 9 10 11

On July 18, 2024, pro se plaintiff Jose Rigoberto Moreno filed a motion requesting that I 12
reinstate his excessive force claims against numerous San Francisco public officials, claims that I
13 dismissed with prejudice over four years ago. See Dkt. No. 45 (Motion for Relief from 14
Judgment).¹ Because Moreno failed to show justification for his more than three-year delay in 15
moving for relief, I denied his motion. Dkt. No. 48 (Order Denying Motion to Reinstate Claim).
16 He later asked me to “clarify” my order, arguing that it lacked “detailed reasoning.” Dkt. No.
49.2 17 My reasons for denying his motion were clearly expressed in that order, but I will restate
them, 18 briefly, here. 19 A motion for relief from judgment based on mistake (Rule 60(b)(1)) or
newly discovered 20 1 On July 16, 2020, after reviewing Moreno’s amended complaint, I
dismissed his claims for 21 failure to state a claim upon which relief could be granted; I noted that
he might have a claim for excessive force under 42 U.S.C. § 1983, so I gave him leave to amend.
See Dkt. No. 31. I directed 22 him to the Legal Help Desk for assistance if he chose to do so. 23
He did not amend, which led me to dismiss all but his section 1983 claims for failure to prosecute
and order him to show cause why the section 1983 claim should not also be dismissed with 24
prejudice. See Dkt. No. 33. In purported compliance with that order, he proposed an amended
complaint that also failed to plausibly allege a section 1983 claim; it was in all meaningful ways
25 identical to his prior complaints. See *id.*; see also Dkt. No. 35 (Proposed Amended Complaint).
I then dismissed all of Moreno’s claims with prejudice and entered final judgment closing the case
26 on January 7, 2021. See Dkt. Nos. 39, 40. 27 2 Moreno also re-filed several Motions for Leave
to Proceed In Forma Pauperis and Motions for 1 evidence (Rule 60(b)(2)) shall be made “no more
than a year after the entry of the judgment or 2 || order or the date of the proceeding.” Fed. R. Civ.
P. 60(c)(1). Final judgment was entered in 3 Moreno’s case on January 7, 2021. See Dkt. No. 50.
More than three years later, Moreno moved 4 for relief from that judgment under Rule 60(b)(1)
and Rule 60(b)(2), asking that I reinstate his 5 || claims. See Dkt. No. 45. That is far outside the
one-year deadline. As I explained to Moreno in 6 the prior order, to the extent that his motion for
relief was brought pursuant to Rule 60(b)(1) and

7 Rule 60(b)(2), it failed as a matter of law. See Dkt. No. 48. Nothing has changed since I issued

8 || that order. 9 I also explained that a motion for relief from judgment based on “any other reason

that 10 || justifies relief’ (Rule 60(b)(6)) must be made within a “reasonable time” considering the
11 circumstances. See Fed. R. Civ. P. 60(c); see also U.S. v. Alpine Land & Reservoir Co., 984
F.2d 12 1047 (9th Cir. 1993). “The rule is to be utilized only where extraordinary circumstances
have 5 13 || prevented a party from taking timely action to prevent or correct an erroneous
judgment.” Alpine 14 || Land, 984 F.2d at 1050. Moreno did not show that “unique and compelling
circumstances” 3 15 || prevented him from seeking relief earlier. See Dkt. No. 48, at 2-3
(explaining that Moreno did not a 16 meet the Rule 60(b)(6) standard for relief). As I stated in the
prior order, while I recognize and 3 17 sympathize with the health problems Moreno experienced
in July 2020 (see Dkt. No. 45 at 3-4) 18 and the medical treatment he received in Europe at
various times between 2021 and 2024 (see id.), 19 these are not the kind of extraordinary
circumstances that would justify a three-year delay between 20 || judgment and Moreno’s request
for relief. My prior order stands. 21 IT IS SO ORDERED. 22 || Dated: February 26, 2025

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24 . illiam H. Orrick 25 United States District Judge 26 27 28