

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.

OPINION

1 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 VM.Q2 24. illiam H. Orrick 25 United States District Judge 26 27 28