

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

Micheal N.B. Attaway v. Sgt. Ritter

Attaway v. Ritter · No. 24-cv-01562-SMY · Decided March 25, 2026

SUMMARY

The United States District Court for the Southern District of Illinois denied Micheal N.B. Attaway’s motions to vacate the dismissal and judgment, file a late amended complaint, and change venue. The court held that Attaway’s vague allegations of newly discovered evidence did not warrant relief under Federal Rule of Civil Procedure 60, and the action remained dismissed with prejudice and closed.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	Staci M. Yandle
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	March 25, 2026
DOCKET	24-cv-01562-SMY
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 60(b)(2), (3), and (6) to vacate the dismissal order and judgment, moved for leave to file a late amended complaint, and moved to change venue.
STANDARD OF REVIEW	Relief under Federal Rule of Civil Procedure 60 is an extraordinary remedy available only in exceptional circumstances.
PRECEDENTIAL VALUE	unknown

TOPICS

- motion for reconsideration
- motion to amend
- venue
- section 1983
- civil procedure

PRACTICE AREAS

- civil procedure
- constitutional law
- prisoner civil rights
- post-judgment relief

QUESTIONS PRESENTED

1. Whether plaintiff established grounds under Federal Rule of Civil Procedure 60(b)(2), (3), or (6) to vacate the dismissal order and judgment.
2. Whether plaintiff should receive leave to file a late amended complaint after failing to amend by the court-ordered deadline.
3. Whether plaintiff's motion to change venue should be granted.

HOLDINGS

1. Plaintiff was not entitled to relief from the dismissal order or judgment because his vague and conclusory allegations did not establish the exceptional circumstances required for Rule 60 relief.
2. Leave to file a late amended complaint was denied because plaintiff failed to amend by the court-ordered deadline, did not request an extension, and waited nearly five months after the case was closed to present vague new claims.
3. The motion to change venue was denied.

KEY QUOTATIONS

“Plaintiff’s vague and conclusory allegations present no exceptional circumstances, given that he omits basic information about the source of new information, the date he learned the information, or any other details connecting this evidence to the defendants.”

“Accordingly, the Motion to Vacate Judgment and Order Dismissing Case (Doc. 14); Motion for Leave to File Late Amended Complaint (Doc. 13); and Motion to Change Venue (Doc. 12) are DENIED.”

FACTUAL BACKGROUND

Plaintiff alleged that Sergeant Ritter failed to protect him from a suicide attempt at Shawnee Correctional Center on May 2, 2023. In support of his Rule 60 motion, plaintiff asserted that an anonymous source had revealed a conspiracy involving Ritter and other officials to have him killed, but he provided no details about the source, when he learned the information, or how it implicated the defendants. He had also failed to amend his complaint by the court-ordered deadline and waited nearly five months after judgment to present the new allegations.

PROCEDURAL HISTORY

Plaintiff filed a 42 U.S.C. § 1983 action alleging that Sergeant Ritter failed to protect him from a suicide attempt. The court dismissed the complaint for failure to state a claim, allowed plaintiff until October 28, 2024, to amend, and warned that failure to do so would result in dismissal. Plaintiff filed no amended complaint or extension request; the court later dismissed the case with prejudice for failure to state a claim, failure to comply with the court's order, and failure to prosecute, and entered judgment. Nearly five months later, plaintiff filed the motions addressed in this order.

DISPOSITION

other

CASES CITED

- Bakery Machinery & Fabrication, Inc. v. Traditional Baking, Inc., 570 F.3d 845, 848 (7th Cir. 2009), cert. denied, 558 U.S. 1147 (2010)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS MICHEAL N.B. ATTAWAY, #Y55493,)) Plaintiff,)) vs.) Case No. 24-cv-01562-SMY) SGT. RITTER,)) Defendant.) MEMORANDUM AND ORDER YANDLE, Chief District Judge: This matter is before the Court on Plaintiff Micheal Attaway's Motion to Vacate Clerk's Judgment and Order Dismissing Case (Doc.

14); Motion for Leave to File Late Amended Complaint (Doc. 13); and Motion to Change Venue (Doc. 12). Plaintiff filed this action under 42 U.S.C. § 1983 for constitutional deprivations stemming from Sergeant Ritter's alleged failure to protect him from a suicide attempt at Shawnee Correctional Center on May 2, 2023.¹ The Court dismissed the Complaint (Doc. 1) for failure to state a claim under 28 U.S.C. § 1915(e)(2) on September 30, 2024.

(Doc. 9). Plaintiff was directed to file an Amended Complaint no later than October 28, 2024, and was warned that failure to do so would result in dismissal of the action. See *id.* (citing FED. R. CIV. P. 41(b)). Plaintiff did not file an Amended Complaint or request an extension of time to do so.

On November 7, 2024, the Court denied Plaintiff's IFP motion and dismissed the action with prejudice for failure to state a claim under § 1915(e)(2), comply with a court order, or to prosecute his claim under Rule 41(b). (Doc. 10). Judgment was entered accordingly. (Doc. 11). ¹ Plaintiff was released on parole on June 4, 2024, and mailed his Complaint and Motion for Leave to Proceed in forma pauperis (IFP) to the Court via overnight mail on June 20, 2024.

(Doc. 1-1). Because he was not a prisoner at the time he filed the Complaint and IFP motion, this matter was subject to review under 28 U.S.C. § 1915(e)(2)(B). Plaintiff now seeks relief from the dismissal order and judgment under Federal Rules of Civil Procedure 60(b)(2), (3), and (6), based on newly discovered evidence of fraud, misrepresentation, or misconduct by the opposing party.

(Doc. 14). Plaintiff claims he discovered new, credible evidence from an anonymous source that Sgt. Ritter, Warden Galloway, Warden Walker, Acting IDOC Director LaToya Hughes, and Governor J.B. Pritzker conspired to commit murder by bribing an inmate to kill him in his sleep in exchange for a private cell. He does not indicate when he learned of the information, what exactly he learned, or how he knew that it implicated each named official.² *Id.* He nevertheless asks this Court to vacate the dismissal order and judgment and allow him to amend his complaint to bring claims against these defendants for a state-sanctioned murder and related constitutional violations.

Id. Because he filed the instant motion nearly five months after entry of judgment, the Motion to Vacate is governed by Rule 60. Rule 60 is an “extraordinary remedy” granted only in “exceptional circumstances.” *Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc.*, 570 F.3d 845, 848 (7th Cir. 2009), cert. denied, 558 U.S. 1147 (2010). Plaintiff’s vague and conclusory allegations present no exceptional circumstances, given that he omits basic information about the source of new information, the date he learned the information, or any other details connecting this evidence to the defendants.

Plaintiff took no action to amend the Complaint before the deadline, requested no extension of time to do so, and waited for almost five months after the case was closed to reveal his vague new claim(s). His inaction does not entitle him to relief.

Accordingly, the Motion to Vacate Judgment and Order Dismissing Case (Doc. 14); Motion for Leave to File Late Amended Complaint (Doc. 13); and Motion to Change Venue (Doc. 12) are DENIED. This 2 In the proposed amended complaint, Plaintiff reveals that “it was only when he was able to later reflect on the events that he learned the razor [used to inflict harm] was in his possession after his cellmate... had finished using it.” See Doc.

13-1, ¶ 3. He offers no connection between this subsequent realization and any conspiracy to murder him involving Ritter, Galloway, Walker, Hughes, or Pritzker. See id. at ¶ 6. case remains dismissed with prejudice and is CLOSED.

The Court also notes that Plaintiff failed to update his U.S. Mail address in this case when he moved and/or filed his motions. Plaintiff is reminded of his ongoing obligation to notify the Clerk of his new address within 14 days of any change, and a separate notice must be filed in each of his cases. See Doc. 3. IT IS SO ORDERED. DATED: March 25, 2026 s/ Staci M. Yandle_____
STACI M. YANDLE Chief U.S. District Judge