UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA, INDIANAPOLIS DIVISION

Welby Thomas Cox, Jr. v. US Department of Justice, et al.

Cox · No. 1:23-cv-01601-JPH-MJD · Decided May 27, 2026

SUMMARY

The United States District Court for the Southern District of Indiana denied Welby Thomas Cox Jr.'s Federal Rule of Civil Procedure 59(e) motion to alter or amend the judgment in his Administrative Procedure Act challenge to the Department of Justice's collection of a restitution debt. The court held that Cox had not shown a manifest error of law or fact, newly discovered evidence, or a violation of the Seventh Circuit's prior mandate. The court granted Cox's motion to proceed on appeal in forma pauperis while noting that he remains liable for appellate fees.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana, Indianapolis Division
WRITING FOR THE COURT	James Patrick Hanlon
JURISDICTION	United States District Court for the Southern District of Indiana
DECIDED	May 27, 2026
DOCKET	1:23-cv-01601-JPH-MJD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 59(e) to alter or amend the judgment entered after the Court granted defendants summary judgment on his Administrative Procedure Act challenge. Plaintiff also moved to proceed in forma pauperis on appeal.
STANDARD OF REVIEW	Relief under Rule 59(e) is reserved for extraordinary cases and requires the movant to clearly establish a manifest error of law or fact or newly discovered evidence that precluded entry of judgment.
PRECEDENTIAL VALUE	nonprecedential district court order
PARTIES	Welby Thomas Cox, Jr. v. US Department of Justice, et al.

TOPICS

motion for reconsideration · summary judgment · administrative procedure act · appellate procedure · waiver

PRACTICE AREAS

Administrative Procedure Act | federal civil procedure | appellate procedure | post-judgment motions | indigent appeals

QUESTIONS PRESENTED

1. Whether Cox established grounds under Rule 59(e) to alter or amend the summary judgment.
2. Whether the prior Seventh Circuit mandate barred the district court from applying waiver principles in adjudicating Cox's APA claim.
3. Whether Cox could proceed in forma pauperis on appeal while remaining liable for appellate fees.

HOLDINGS

1. Cox was not entitled to Rule 59(e) relief because he did not establish a manifest error of law or fact, newly discovered evidence, or another extraordinary basis for altering the judgment.
2. The prior Seventh Circuit mandate did not prevent the district court from applying ordinary waiver principles, and the Department of Justice was entitled to summary judgment because it provided the notice required by the Treasury Offset Program.
3. Cox was granted permission to proceed in forma pauperis on appeal, but remained liable for the applicable fees.

KEY QUOTATIONS

> *“"Relief under Rule 59(e) is generally reserved for extraordinary cases."”* (at 1)

> *“"A Rule 59(e) motion can be granted only where the movant clearly establishes: (1) that the court committed a manifest error of law or fact, or (2) that newly discovered evidence precluded entry of judgment."”* (at 1)

> *“"Rule 59(e) does not provide a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party to introduce new evidence or advance arguments that could and should have been presented to the district court prior to judgment."”* (at 1)

> *“The Department of Justice was entitled to summary judgment in this case because it provided the notice required by the Treasury Offset Program.”* (at 2)

> *“Under 28 U.S.C. § 1915(a), a district court may allow a litigant to proceed 'without prepayment of fees,’ ... but not without ever paying fees.”* (at 3)

FACTUAL BACKGROUND

Cox challenged the Department of Justice's efforts to collect his restitution debt under the Administrative Procedure Act. The Court had granted summary judgment to the Department after concluding that it provided the notice required by the Treasury Offset Program and that Cox waived any challenge to the notice's sufficiency under 31 U.S.C. § 3716. Cox asserted that he lacked notice of the summary-judgment response deadline, that the Court misstated the year of his sentencing and overlooked communications, and that the judgment violated the Seventh Circuit's prior mandate.

PROCEDURAL HISTORY

The Court previously granted the Department of Justice's motion for summary judgment and entered final judgment. In an earlier appeal, the Seventh Circuit remanded for adjudication of Cox's APA claim and found other arguments waived. Cox then filed a Rule 59(e) motion challenging the summary-judgment proceedings and the Court's compliance with the mandate; the Court denied that motion and granted his motion to proceed in forma pauperis on appeal.

DISPOSITION

other

CASES CITED

- Reilly v. Will Co. Sheriff's Off., 142 F.4th 924, 929 (7th Cir. 2025)
- Barrington Music Prods., Inc. v. Music & Arts Ctr., 924 F.3d 966, 968 (7th Cir. 2019)
- Thomas v. Zatecky, 712 F.3d 1004, 1005 (7th Cir. 2013)
- Rosas v. Roman Catholic Archdiocese of Chicago, 748 F. App'x 64, 65 (7th Cir. 2018)

OPINION

COX
PER CURIAM.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
)
WELBY THOMAS COX, JR.)
) Plaintiff,)) v.) No. 1:23-cv-01601-JPH-MJD) US DEPARTMENT OF JUSTICE, et al.)) Defendants.)
ORDER
In March 2026, the Court granted Defendants' motion for summary judgment on Welby Cox's Administrative Procedure Act challenge to the Department of Justice's efforts to collect his restitution debt. Dkt. 78; see dkt. 79 (final judgment). Mr. Cox has filed a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e). Dkt. 80. He argues that he was not notified of the deadline to response to the Department of Justice's motion for summary judgment and that the Court failed to adhere to the Seventh Circuit's mandate previously issued in this case. Id. The Department of Justice responds that the Court committed no error. Dkt. 81. "Relief under Rule 59(e) is generally reserved for extraordinary cases." Reilly v. Will Co. Sheriff's Off., 142 F.4th 924, 929 (7th Cir. 2025). "A Rule 59(e) motion can be granted only where the movant clearly establishes: (1) that the court committed a manifest error of law or fact, or (2) that newly discovered evidence precluded entry of judgment." Barrington Music Prods., Inc. v. Music & Arts

Ctr., 924 F.3d 966, 968 (7th Cir. 2019). "Rule 59(e) does not provide a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party to introduce new evidence or advance arguments that could and should have been presented to the district court prior to judgment." Id. Here, Mr. Cox argues that he was not informed of the summary judgment briefing schedule or the opportunity to respond to the Department of Justice's motion for summary judgment. Dkt. 80 at 1. That deadline, however, was set by Court order, dkt. 44, and even if it had not been, Mr. Cox could have calculated the deadline under Local Rule 56-1, which requires a response brief "within 28 days after the movant serves" its summary judgment motion. Mr. Cox next contends that the Court misstated the year that he was sentenced and did not recognize some of his prior communications with the Department of Justice. Dkt. 80 at 1–1. But the Court correctly identified the date of Mr. Cox's amended judgment, and none of the alleged facts that Mr. Cox identifies are relevant to the issues resolved in the summary judgment order. See dkt. 78; Barrington Music Prods., 924 F.3d at 968. Finally, Mr. Cox argues that the Court's summary judgment order failed to adhere to the Seventh Circuit's mandate in his earlier appeal in this case by granting summary judgment "on a perceived procedural default" rather than on the merits. Dkt. 80 at 2. The Department of Justice was entitled to summary judgment in this case because it provided the notice required by the Treasury Offset Program. Dkt. 78 at 3–6. While the Court held that Mr. Cox waived any challenge to the notice's sufficiency under 31 U.S.C. § 3716, id. at 4, nothing in the Seventh Circuit's prior mandate prevented the application of ordinary waiver principles, dkt. 40 (remanding for adjudication of Mr. Cox's APA claim and finding other arguments waived). Mr. Cox's Rule 59(e) motion to alter or amend the judgment is therefore DENIED. Dkt. [80]. Mr. Cox has also filed a motion to proceed on appeal in forma pauperis. Dkt. [83]; see dkt. 84. That motion is GRANTED. See Thomas v. Zatecky, 712 F.3d 1004, 1005 (7th Cir. 2013) ("[T]he possibility of litigating in forma pauperis—applies to 'any suit, action or proceeding, civil or criminal, or appeal therein.'"). While in forma pauperis status allows Mr. Cox to proceed without prepayment of fees, he remains liable for the fees. See Rosas v. Roman Catholic Archdiocese of Chicago, 748 F. App'x 64, 65 (7th Cir. 2019) ("Under 28 U.S.C. § 1915(a), a district court may allow a litigant to proceed 'without prepayment of fees,' ... but not without ever paying fees."). SO ORDERED. Date: 5/27/2026 Sema Pat nuck Hanlon James Patrick Hanlon United States District Judge Southern District of Indiana Distribution: WELBY THOMAS COX, JR. 415 NW 9th St. Richmond, IN 47374 All electronically registered counsel