

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Hunter v. Sacramento County

Hunter · No. 2:22-cv-01520-DJC-JDP · Decided May 27, 2025

OPINION

(PC) Hunter v. Sacramento County

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 BRANDON EUGENE HUNTER, No. 2:22-cv-01520-DJC-JDP

12 Plaintiff, 13 v. ORDER

14 SACRAMENTO COUNTY

15 Defendant. 16

17 Plaintiff is a state prisoner proceeding pro se with this civil rights action seeking 18 relief under
42 U.S.C. section 1983. The matter was referred to a United States 19 Magistrate Judge pursuant
to 28 U.S.C. Section 636(b)(1)(B) and Local Rule 302. 20 On November 7, 2024, Magistrate
Judge Peterson filed Findings and 21 Recommendations which were served on all parties and
which contained notice to all 22 parties that any objections to the Findings and Recommendations
were to be filed 23 within fourteen days. (F. & R. (ECF No. 32).) In the Findings and
Recommendations, 24 the Magistrate Judge recommended that the case be dismissed for failure to
comply 25 with court orders requiring Plaintiff to respond to Defendant’s filings, and failure to 26
prosecute. (Id.) Plaintiff did not file an objection. The Court adopted the Findings 27 and
Recommendations on January 10, 2025, and ordered the case closed. (ECF No. 28 33.) 1 On
February 4, 2025, the Court taxed an amount of \$650 against Plaintiff 2 related to costs associated
with Plaintiff’s failure to appear at a deposition. (ECF No. 3 38.) On February 24, 2025, Plaintiff
filed a Motion for Reconsideration of those costs 4 (ECF No. 39), which was denied by Magistrate
Judge Peterson on February 28, 2025 5 (ECF No. 40.) On March 10, 2025, Plaintiff submitted a
new Motion for 6 Reconsideration (ECF No. 41) of costs taxed against him, and a Motion for 7
Reconsideration (ECF No. 42) asking the Court to reconsider all rulings issued 8 between July 1,
2024, and the present date. In his second Motion for Reconsideration 9 of the costs taxed against
him (ECF No. 41), Plaintiff notes that the Motion is meant to 10 explain “why the accompanying
motion [ECF No. 42] should be granted by this court.” 11 (ECF No. 41 at 2.) He goes on to state
that the first Motion (ECF No. 39) he filed was 12 done so “with intentions of putting these courts

on notice” that he would be filing “a 13 bigger motion [ECF No 42]” to explain his “absence in full details as to all orders since

14 July 1st 2024 to the present, which Plaintiff is now submitting with this motion.” (ECF 15 No. 41 at 3.) Accordingly, the Court will consider the newly filed Motions (ECF Nos. 41 16 and 42) jointly, as they both seek to provide context regarding Plaintiff’s failure to 17 respond to Defendant’s filings and court orders. 18 1. Plaintiff is Not Entitled to Reconsideration of Court Orders 19 Plaintiff asserts that under Federal Rule of Civil Procedure 60, the Court should 20 grant reconsideration of its prior orders dismissing his case, taxing costs against him, 21 and previously denying reconsideration. (ECF No. 41 at 1–3.) 22 The Court agrees that Plaintiff’s Motions should be construed as Motions for 23 Relief from Judgment or Order under Federal Rule of Civil Procedure 60. As relevant 24 here, Rule 60 provides that a party may seek relief for the following reasons: (1) 25 mistake, inadvertence, surprise, or excusable neglect; and (3) fraud (whether 26 previously called intrinsic or extrinsic), misrepresentation, or misconduct by an 27 opposing party. Fed. R. Civ. P. 60(b)(1), (3). “A motion for reconsideration should not 28 be granted, absent highly unusual circumstances, unless the district court is presented 1 with newly discovered evidence, committed clear error, or if there is an intervening 2 change in the controlling law,” and it “may not be used to raise arguments or present 3 evidence for the first time when they could reasonably have been raised earlier in the 4 litigation.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 5 880 (9th Cir. 2009) (internal quotations marks & citations omitted). 6 Plaintiff documents that he is suffering from a shoulder and other bodily 7 injuries, and a mental health decline. (ECF No. 42 at 1.) Plaintiff also reports that from

8 July 2024 through October 2024, and currently, he has experienced or is 9 experiencing suicidal thoughts. (Id. at 6.) He points to these experiences, as well as 10 alleged mistreatment by Sacramento County Main Jail staff and opposing counsel, as 11 providing a sufficient basis for this Court to reconsider its previous orders. While the 12 Court recognizes Plaintiff’s negative experience at the Sacramento County Main Jail, 13 his proffered reasons do not constitute excusable neglect, nor does he sufficiently 14 identify misconduct by an opposing party that would justify reconsideration. 15 Where a party misses a filing deadline, as Plaintiff has numerous times in this 16 case, courts use the four-factor *Pioneer* test to determine whether it constitutes 17 excusable neglect. *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380 18 (1993); see *Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 381 (9th Cir. 1997). Under 19 *Pioneer*, courts consider: [1] the danger of prejudice to the defendant, [2] the length 20 of the delay and its potential impact on judicial proceedings, [3] the reason for the 21 delay, including whether it was within the reasonable control of the plaintiff, and [4] 22 whether the plaintiff acted in good faith. *Briones*, 116 F.3d at 381. This is an equitable 23 test that takes into account “all relevant circumstances surrounding the party’s 24 omission.” Id. “[I]nadvertence, ignorance of the rules, or mistakes construing the rules 25 do not usually constitute ‘excusable’ neglect . . .” Id. at

382. 26 Here, the Pioneer factors guide the Court against reconsideration. As to the 27 first factor, Plaintiff's failure to prosecute has already delayed the case, and any further 28 delay from reopening and relitigating the case would continue to prejudice 1 Defendants who have fairly sought to close this case. See *Allah v. Rutledge*, No. 2 EDCV171748JAKRAO, 2020 WL 8410446, *4 (C.D. Cal. Aug. 24, 2020). Second, and 3 relatedly, this case has already experienced significant prolongment due to Plaintiff's 4 failure to respond to court orders and litigate. "Although Plaintiff's delay in moving for 5 relief from the judgment was relatively short, Plaintiff has been responsible for a much 6 longer delay in prosecuting the case at earlier stages," and accordingly, this factor 7 weighs against Plaintiff. *Id.* Third, while the Court is sympathetic to Plaintiff's mental 8 state and conditions at the Sacramento County Main Jail, he has not identified any 9 compelling reason for his delay or neglect in making court filings. For example, he 10 has not claimed that he did not receive the Defendant's filings or any court orders. Cf. 11 *id.* (finding excusable neglect when a prisoner did not receive a filing due to being 12 hospitalized and when the prisoner "attempted to file an opposition to the motion to 13 dismiss immediately after receiving, but it did not reach the Court"). As to the fourth 14 factor of good faith, the Court has insufficient information in front of it to properly 15 weigh this factor either in Plaintiff's favor or Defendant's. However, given that the 16 previous three factors weigh in favor of denying reconsideration, the Court concludes 17 that denial is appropriate. Simply stated, the general distress reported by Plaintiff 18 does not excuse his failure to respond to Defendant's filings or court orders requiring 19 him to respond to Defendant's filings. 20 Separately, Plaintiff provides unsubstantiated accusations against defense 21 counsel Porter Scott, alleging that defense counsel was a "major participant in having 22 deputies retaliate against [Plaintiff] to make it easier for [defense counsel] to defeat 23 [Plaintiff] in court." (ECF No. 43 at 6.) The Court finds that these unsupported 24 accusations against Defendants and defense counsel do not constitute "misconduct 25 by an opposing party," and the Court declines to use this as a basis for 26 reconsideration of its prior orders. And regardless of the merits of Plaintiff's 27 allegations, none of Plaintiff's arguments derive from information not available in

28 February 2025, when Plaintiff filed his initial Motion for Reconsideration (ECF No. 39),

1 | and thus, the subsequent Motions (ECF Nos. 41 and 42) are not properly before the 2 | Court. *Marlyn Nutraceuticals, Inc.*, 571 F.3d at 880.

3 CONCLUSION

4 Plaintiff's Motions for Relief from a Judgment or Order pursuant to Rule 60 (ECF 5 || Nos. 42 and 43) are DENIED. This action shall remain closed and no further filings in 6 | this closed action shall be accepted. 7 8 IT IS SO ORDERED. 9 | Dated: _May 23, 2025 "Darel J CL bratter — Hon. Daniel alabretta

10 UNITED STATES DISTRICT JUDGE

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