

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Flynn v. Horn

303 F. App'x 966 (2d Cir. 2008) · Decided December 24, 2008

SUMMARY

The United States Court of Appeals for the Second Circuit affirmed the Eastern District of New York’s denial of Jeremiah Young Flynn’s motion for reconsideration under Federal Rule of Civil Procedure 60(b). The court held that Flynn could not use the motion to relitigate the underlying judgment and had not shown exceptional circumstances, newly discovered evidence, or an abuse of discretion.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
JURISDICTION	Federal
DECIDED	December 24, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appellant appealed the Eastern District of New York's denial of his Federal Rule of Civil Procedure 60(b) motion for reconsideration of a December 2005 judgment entered after the district court granted defendants' motion for summary judgment.
STANDARD OF REVIEW	The denial of a Rule 60(b) motion is reviewed for abuse of discretion. A district court abuses its discretion if it relies on an erroneous view of the law or a clearly erroneous assessment of the evidence.
PRECEDENTIAL VALUE	Nonprecedential summary order
PARTIES	Jeremiah Young Flynn v. Horn

TOPICS

- motion for reconsideration
- appellate procedure
- standard of review
- summary judgment
- civil rights

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Civil rights
- Health law

QUESTIONS PRESENTED

1. Whether the Second Circuit could review the underlying December 2005 judgment through Flynn's appeal from the denial of his Rule 60(b) motion.

2. Whether the district court abused its discretion by denying Flynn's Rule 60(b) motion for reconsideration.

HOLDINGS

1. When a Rule 60(b) motion is filed more than ten days after entry of judgment, an appeal from its denial brings up for review only the order denying the motion and does not permit the appellant to attack the underlying judgment for errors that could have been raised on direct appeal.
2. The district court did not abuse its discretion in denying Flynn's Rule 60(b) motion because Flynn identified neither newly discovered evidence nor an erroneous view of the facts or evidence, and merely attempted to relitigate his underlying claims.

KEY QUOTATIONS

“The appeal “does not permit the appellant to attack the underlying judgment for error that could have been complained of on direct appeal.”” (at 966)

“Relief pursuant to Rule 60(b) motions is available only in “exceptional circumstances.”” (at 967)

FACTUAL BACKGROUND

The underlying action involved Flynn's claims concerning medical care and an EKG readout. In granting summary judgment, the district court found no evidence from which a jury could infer that the medical staff knew or should have known of Flynn's heart condition or acted with a culpable state of mind. Flynn's Rule 60(b) motion and appeal did not identify newly discovered evidence or show that the prior ruling rested on an erroneous view of the facts or evidence.

PROCEDURAL HISTORY

The district court granted defendants' motion for summary judgment and entered judgment in December 2005. Flynn later moved for reconsideration under Rule 60(b); the district court denied that motion, and the Second Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- "R" Best Produce, Inc. v. DiSapio, 540 F.3d 115, 122 n. 5 (2d Cir. 2008)
- Daily Mirror, Inc. v. New York News, Inc., 533 F.2d 53, 56 (2d Cir. 1976)
- Ruotolo v. City of New York, 514 F.3d 184, 191 (2d Cir. 2008)
- Transaero, Inc. v. La Fuerza Aerea Boliviana, 162 F.3d 724, 729 (2d Cir. 1998)

OPINION

PER CURIAM.

SUMMARY ORDER Appellant Jeremiah Young Flynn, pro se and incarcerated, appeals from the order of the United States District Court for the Eastern District of New York (Gleeson, J.) denying his motion for reconsideration, brought pursuant to Fed.R.Civ.P. 60(b), of the district court's December 2005 judgment.

We assume the parties' familiarity with the facts and procedural history of this case. *967An appeal from an order denying a Rule 60(b) motion filed more than ten days after entry of the judgment brings up for review only the order denying the motion. See "R" Best Produce, Inc. v. DiSapio, 540 F.3d 115, 122 n. 5 (2d Cir.2008) (citation omitted).

The appeal "does not permit the appellant to attack the underlying judgment for error that could have been complained of on direct appeal." *Daily Mirror, Inc. v. New York News, Inc.*, 533 F.2d 53, 56 (2d Cir.1976) (citation omitted). Relief pursuant to Rule 60(b) motions is available only in "exceptional circumstances." See *Ruotolo v. City of New York*, 514 F.3d 184, 191 (2d Cir.2008).

We review rulings on Rule 60(b) motions for abuse of discretion. See *Transaero, Inc. v. La Fuerza Aerea Boliviana*, 162 F.3d 724, 729 (2d Cir.1998). "A district could would necessarily abuse its discretion if it based its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence." *Id.* Young Flynn has not argued on appeal why his motion for reconsideration should have been granted, or why the district court abused its discretion in denying his motion.

Instead, Young Flynn merely reiterates his claims raised in his complaint in an apparent attempt to relitigate the underlying judgment, which he cannot do. See *Daily Mirror, Inc.*, 533 F.2d at 56. In its decision granting the defendants' motion for summary judgment, the district court discussed Young Flynn's EKG readout, and found that there was no evidence from which a jury could infer that the medical staff was aware, or even should have been aware, of Young Flynn's heart condition, nor that the medical staff had a culpable state of mind.

Young Flynn has not submitted any newly discovered evidence or made any argument that the district court based its ruling on an erroneous view of the facts or evidence. Accordingly, we conclude that the district court did not abuse its discretion in denying Young Flynn's motion for reconsideration.

We have reviewed appellant's remaining arguments and find them to be without merit. For the reasons stated above, the judgment of the district court is **AFFIRMED**.