

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

Micheal N.B. Attaway v. Alex Welch, Ashley Sharp, and Alfonso
David, M.D.

Attaway · No. 3:23-cv-02168-RJD · Decided January 26, 2026

SUMMARY

The court denies Plaintiff Micheal N.B. Attaway’s motions to change venue, vacate the judgment, strike filings, seek default or summary judgment, and impose sanctions. The court holds that relief under Federal Rules of Civil Procedure 59(e) and 60(b) is unavailable because the motion was untimely under Rule 59(e) and Plaintiff did not establish excusable neglect or other grounds for relief under Rule 60(b). The case remains dismissed with prejudice and closed.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	Reona J. Daly
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	January 26, 2026
DOCKET	3:23-cv-02168-RJD
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved to change venue, vacate the dismissal and judgment, strike filings, enter default judgment, grant summary judgment, and impose sanctions after the action had been dismissed with prejudice for failure to prosecute.
STANDARD OF REVIEW	Relief from judgment under Rule 59(e) is available only in exceptional circumstances involving manifest error of law or fact or newly discovered evidence, and a Rule 59(e) motion must be filed within 28 days. Relief under Rule 60(b) is an extraordinary remedy available only in exceptional circumstances.
PRECEDENTIAL VALUE	unpublished district-court memorandum and order; nonprecedential
PARTIES	Micheal N.B. Attaway v. Alex Welch, Ashley Sharp, Alfonso David, M.D.

TOPICS

motion for reconsideration

civil procedure

prisoners rights

section 1983

sanctions

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

remedies

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to relief from the dismissal and judgment under Federal Rule of Civil Procedure 59(e).
2. Whether Plaintiff was entitled to relief from the dismissal and judgment under Federal Rule of Civil Procedure 60(b)(1) based on mistake, inadvertence, surprise, or excusable neglect.
3. Whether Plaintiff's remaining motions to change venue, strike filings, enter default judgment, grant summary judgment, and impose sanctions should be granted after the case could not be reopened.

HOLDINGS

1. Plaintiff was not entitled to relief under Rule 59(e) because his motion to vacate was filed more than 28 days after judgment.
2. Plaintiff was not entitled to relief under Rule 60(b) because he did not establish mistake, inadvertence, surprise, or excusable neglect warranting the extraordinary remedy of relief from judgment.
3. Plaintiff's motions to change venue, strike filings, enter default judgment, grant summary judgment, and impose sanctions were denied as moot because the case could not be reopened.

KEY QUOTATIONS

"Relief under Rule 60(b) is an "extraordinary remedy" that should be granted only in "exceptional circumstances."" (at 3)

"This case shall remain dismissed with prejudice and is CLOSED." (at 5)

FACTUAL BACKGROUND

The action concerned Plaintiff's civil-rights claims against the defendants and included a pending motion for summary judgment concerning exhaustion of administrative remedies. After Plaintiff was released from custody, the court ordered him to provide an email address and advise whether he could access a Zoom evidentiary hearing. The order was mailed to his address of record and was not returned, but Plaintiff failed to comply, failed to appear at the hearing, and failed to respond to a subsequent order to show cause. Plaintiff later asserted that lack of resources, unstable housing, and failure to receive notice prevented him from prosecuting the case.

PROCEDURAL HISTORY

The court dismissed the action with prejudice on November 14, 2024, under Federal Rule of Civil Procedure 41(b), after Plaintiff failed to comply with an order requiring him to provide contact information and participate in an evidentiary hearing, and then failed to respond to an order to show cause. Judgment was entered the same

day. Plaintiff later moved to vacate the judgment, asserting lack of notice, financial hardship, and excusable neglect. The court denied relief under Rules 59(e) and 60(b), denied the remaining motions as moot, and ordered that the case remain closed.

DISPOSITION

dismissed

CASES CITED

- Mares v. Busby, 34 F.3d 533, 535 (7th Cir. 1994)
- Willis v. Dart, 671 F. App'x 376, 377 (7th Cir. 2016)
- Gonzalez-Koeneke v. West, 791 F.3d 801, 807 (7th Cir. 2015)
- Heyde v. Pittenger, 633 F.3d 512, 521 (7th Cir. 2011)
- Bakery Machinery & Fabrication, Inc. v. Traditional Baking, Inc., 570 F.3d 845, 848 (7th Cir. 2009), cert. denied, 558 U.S. 1147 (2010)
- Attaway v. Talamantes, No. 23-CV-02771-JPG, 2025 WL 2840494, at *3 (S.D. Ill. Oct. 7, 2025)
- Henthorn v. Fish, 2024 WL 1702894, at *2 (S.D. Ind. Apr. 18, 2024)
- McLaughlin v. Jung, 959 F.2d 1310, 1312 (7th Cir. 1992)