

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
KENTUCKY, SOUTHERN DIVISION

In re: The Estate of Brian Keith Bennett, et al. v. C. Gomez, Warden,
et al.

No. 6:22-CV-45-REW-HAI (E.D. Ky. Jan. 23, 2026) · No. 6:22-CV-45-REW-HAI · Decided January 23, 2026

SUMMARY

The United States District Court for the Eastern District of Kentucky denies Plaintiffs’ Rule 60(b) motion seeking relief from a judgment dismissing their claims arising from Brian Keith Bennett’s death while incarcerated. The court concludes that most arguments were untimely, and that Plaintiffs failed to establish by clear and convincing evidence any qualifying mistake, newly discovered evidence, discovery misconduct, excusable neglect, or extraordinary circumstance. The court also reiterates that the pleaded failure-to-protect theory was not cognizable under Bivens and that Plaintiffs failed to plead individual deliberate-indifference liability.

CASE DETAILS

COURT	United States District Court for the Eastern District of Kentucky, Southern Division
WRITING FOR THE COURT	Robert E. Wier
JURISDICTION	United States District Court for the Eastern District of Kentucky, Southern Division
DECIDED	January 23, 2026
DOCKET	6:22-CV-45-REW-HAI
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs' Rule 60(b) motion for relief from judgment following dismissal of prisoner civil rights (Bivens) complaint under Rule 12(b) (6)
STANDARD OF REVIEW	Clear and convincing evidence required for Rule 60(b) relief; timeliness assessed for reasonableness of delay
PRECEDENTIAL VALUE	unpublished

TOPICS

- motion for reconsideration
- civil procedure
- civil rights
- prisoners rights
- qualified immunity

PRACTICE AREAS

civil procedure

civil rights

constitutional law

prisoner litigation

QUESTIONS PRESENTED

1. Whether Plaintiffs' Rule 60(b) motion was timely filed
2. Whether Plaintiffs are entitled to relief under Rule 60(b)(1) for judicial mistake or attorney error/excusable neglect
3. Whether Plaintiffs are entitled to relief under Rule 60(b)(2) for newly discovered evidence
4. Whether Plaintiffs are entitled to relief under Rule 60(b)(3) for opposing party's fraud or misconduct
5. Whether Plaintiffs are entitled to relief under Rule 60(b)(6) for attorney abandonment constituting extraordinary circumstances
6. Whether Plaintiffs adequately developed their arguments for Rule 60(b) relief

HOLDINGS

1. Most of Plaintiffs' Rule 60(b) claims are untimely due to unreasonable delay; Plaintiffs could have brought nearly all challenges within days of the judgment but waited a full year without adequate explanation. However, the Rule 60(b)(2) claim based on newly discovered video evidence (available only since May 2025) is not time-barred.
2. The court did not commit the legal errors Plaintiffs identify. Plaintiffs were initially permitted to proceed on their Carlson/Estelle deliberate-indifference claim, and the subsequent dismissal was based on Plaintiffs' failure to allege direct action or involvement by named Defendants, not on a misinterpretation of law. The failure-to-protect claim was properly foreclosed by *Egbert v. Boule*.
3. Attorney Noll's failure to file a Rule 59(e) motion does not justify relief because Plaintiffs failed to identify any viable underlying claim that would have altered the court's analysis.
4. Plaintiffs' newly discovered video evidence would not change the outcome of the Rule 12(b)(6) analysis because it does not establish individual liability by the named Defendants for deliberate indifference to Bennett's medical needs.
5. Defendants did not commit discovery misconduct because they were never under a specific obligation to produce discovery; a discovery stay was properly granted pending resolution of the Rule 12(b)(6) motion.
6. Plaintiffs' allegations of attorney Noll's deficient performance and abandonment do not meet the extraordinary circumstances threshold required for Rule 60(b)(6) relief, and Plaintiffs failed to demonstrate a good underlying claim.
7. Plaintiffs waived their Rule 60(b) claims by failing to articulate the applicable legal standards or show how their arguments fit within those standards, offering only perfunctory and skeletal argumentation.

KEY QUOTATIONS

“Relief under Rule 60(b) is the exception, not the rule, and we are guided by the constraints imposed by a public policy favoring finality of judgments and termination of litigation.” (Section II (Legal Standard))

“Rule 60(b) provides ‘an extraordinary remedy . . . granted only in exceptional circumstances.’” (Section II (Legal Standard))

“This strict standard is ‘essential if the finality of judgments is to be preserved.’” (Section II (Legal Standard))

“Rule 60(b) grounds are intended to ‘attack[], not the substance of the federal court’s resolution of a claim on the merits, but some defect in the integrity of the . . . proceedings.’” (Section II (Legal Standard))

“Rule 60(b) motions are ‘neither a substitute for, nor a supplement to, an appeal.’” (Section II (Legal Standard))

“Rule 60(b)(6) may only be invoked where ‘something more’ is present—‘unusual and extreme situations where principles of equity mandate relief.’” (Section III.B.1.iv)

“Issues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived. It is not sufficient for a party to mention a possible argument in the most skeletal way, leaving the Court to . . . put flesh on its bones.” (Section III.B.2)

“‘[N]eglect and abandonment by counsel have persuaded some courts to afford relief under Rule 60(b)(6).’” (Section III.B.1.iv)

“the Complaint did not meet the governing plausibility standard” (Section III.B.1.i)

“Plaintiffs’ inability, as a matter of law, to recover against Defendants under a respondeat superior theory of liability and on account of their complete failure to ‘allege . . . direct action, direct involvement, or [a] factual role, relative to the medical management of [Brian] Bennett, by the named Defendants.’” (Section III.B.1.i)

FACTUAL BACKGROUND

Brian Keith Bennett was murdered by other inmates while incarcerated at USP McCreary in Pine Knot, Kentucky. His estate and family members (mother Wanda Ellen Bennett and son Michael Keith Bennett) brought a Bivens action against prison officials, including Warden C. Gomez, Donald Hudson, and Tina Ritchie, alleging failure to protect and deliberate indifference to serious medical needs. The complaint was dismissed with prejudice after Plaintiffs failed to allege direct involvement by the named Defendants in Bennett’s medical management. Plaintiffs’ prior attorney, James G. Noll, withdrew after the judgment. Approximately one year later, Plaintiffs filed a Rule 60(b) motion through new attorney John L. Caudill, citing newly discovered video evidence from the criminal proceedings against Bennett’s assailants (available May 2025), alleged discovery misconduct, the court’s purported legal errors, and Noll’s deficient performance and abandonment.

PROCEDURAL HISTORY

Plaintiffs brought a Bivens action alleging Eighth Amendment claims (failure to protect and deliberate indifference to serious medical needs) against federal prison officials after inmate Brian Keith Bennett was murdered by other inmates at USP McCreary. The court granted Defendants’ first Rule 12(b)(6) motion in part, dismissing the failure-to-protect claim but retaining the deliberate-indifference claim under *Carlson v. Green* and

Estelle v. Gamble. Defendants' second Rule 12(b)(6) motion succeeded because Plaintiffs failed to allege direct action or involvement by the named Defendants and could not proceed under respondeat superior. The complaint was dismissed with prejudice. Plaintiffs did not appeal. Exactly one year later, Plaintiffs filed a Rule 60(b) motion through new counsel, alleging judicial error, newly discovered evidence, discovery misconduct, and prior counsel's deficient performance and abandonment.

DISPOSITION

other

CASES CITED

- Egbert v. Boule, 596 U.S. 482 (2022)
- Ziglar v. Abbasi, 137 S. Ct. 1843 (2017)
- Carlson v. Green, 446 U.S. 14 (1980)
- Estelle v. Gamble, 429 U.S. 97 (1976)
- Franklin v. Jenkins, 839 F.3d 465 (6th Cir. 2016)
- Waifersong, Ltd. v. Classic Music Vending, 976 F.2d 290 (6th Cir. 1992)
- McAlpin v. Lexington 76 Auto Truck Shop, Inc., 229 F.3d 491 (6th Cir. 2000)
- BLOM Bank SAL v. Honickman, 145 S. Ct. 1612 (2025)
- Gonzalez v. Crosby, 545 U.S. 524 (2005)
- Info-Hold, Inc. v. Sound Merch., Inc., 538 F.3d 448 (6th Cir. 2008)
- Carter v. Anderson, 585 F.3d 1007 (6th Cir. 2009)
- GenCorp., Inc. v. Olin Corp., 477 F.3d 368 (6th Cir. 2007)
- Hopper v. Euclid Manor Nursing Home, Inc., 867 F.2d 291 (6th Cir. 1989)
- Olle v. Henry & Wright Corp., 910 F.2d 357 (6th Cir. 1990)
- In re G.A.D., Inc., 340 F.3d 331 (6th Cir. 2003)
- Miller v. Mays, 879 F.3d 691 (6th Cir. 2018)
- Tyler v. Anderson, 749 F.3d 499 (6th Cir. 2014)
- Kemp v. United States, 599 U.S. 528 (2022)
- McCurry ex rel. Turner v. Adventist Health Sys./Sunbelt, Inc., 298 F.3d 586 (6th Cir. 2002)
- Yeschick v. Mineta, 675 F.3d 622 (6th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007)
- Luna v. Bell, 887 F.3d 290 (6th Cir. 2018)
- Buck v. Davis, 580 U.S. 100 (2017)
- McPherson v. Kelsey, 125 F.3d 989 (6th Cir. 1997)
- Overstreet v. Lexington-Fayette Urban County Government, 305 F.3d 566 (6th Cir. 2002)
- Fisher v. Hollingsworth, 115 F.4th 197 (3d Cir. 2024)

- Kellar v. Yunion, Inc., 157 F.4th 855 (6th Cir. 2025)
- Outfront Media, LLC v. LeMaster, No. 7:17-CV-66, 2020 WL 4582412 (E.D. Ky. Aug. 10, 2020)
- Bennett v. United States, No. 6:24-CV-31 (E.D. Ky.)

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