

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA

John Andrew Kister v. Patrice Richie Jones

Kister v. Jones · No. 2:20-cv-606-ECM · Decided January 16, 2026

SUMMARY

The United States District Court for the Middle District of Alabama denies the plaintiff’s pro se motion for relief from final judgment under Federal Rule of Civil Procedure 60(b)(6). The court holds that the plaintiff failed to demonstrate extraordinary circumstances or diligence, noting that he did not appeal the summary judgment ruling and waited nearly two years after judgment to seek postjudgment relief. The case remains closed.

CASE DETAILS

COURT	United States District Court for the Middle District of Alabama
WRITING FOR THE COURT	Emily C. Marks
JURISDICTION	United States District Court for the Middle District of Alabama
DECIDED	January 16, 2026
DOCKET	2:20-cv-606-ECM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 60(b)(6) to reopen the closed case and set aside the final judgment granting defendant summary judgment.
STANDARD OF REVIEW	Rule 60(b)(6) relief is available only in extraordinary circumstances; the movant must show sufficiently extraordinary circumstances and that denial of relief would result in extreme and unexpected hardship.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	John Andrew Kister v. Patrice Richie Jones

TOPICS

- motion for reconsideration
- summary judgment
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to relief from the final judgment under Federal Rule of Civil Procedure 60(b)(6) based on subsequent Eleventh Circuit decisions concerning special-report procedures.
2. Whether Plaintiff's failure to object to the Recommendation, appeal the summary-judgment judgment, and timely seek postjudgment relief precluded a finding of extraordinary circumstances.

HOLDINGS

1. The Chapman concurrence did not establish a change in law and therefore could not, standing alone, constitute an extraordinary circumstance warranting Rule 60(b)(6) relief.
2. Plaintiff failed to establish extraordinary circumstances justifying relief from the final judgment because he did not appeal the summary-judgment ruling and waited nearly two years after judgment, and approximately six months after *Kister v. Borowicz*, to seek postjudgment relief.

KEY QUOTATIONS

“ “[R]elief under Rule 60(b)(6) is available only in ‘extraordinary circumstances.’ ” ”

“ To warrant relief under Rule 60(b)(6), the moving party must not only show “ ‘sufficiently extraordinary’ circumstances,” but also that “absent such relief, an ‘extreme’ and ‘unexpected’ hardship will result.” ”

FACTUAL BACKGROUND

The District Court previously entered judgment dismissing Kister's action with prejudice after granting summary judgment based on the defendants' answer and special report, which had been construed as summary-judgment motions. Kister did not object to the Magistrate Judge's Recommendation or appeal the judgment. He later sought relief after the Eleventh Circuit vacated a summary-judgment ruling in another case involving special-report procedures and after a concurrence in another case expressed concerns about those procedures.

PROCEDURAL HISTORY

The Magistrate Judge construed the defendants' answer and special report as motions for summary judgment and issued a Recommendation. The District Court adopted the Recommendation, granted summary judgment for the defendant, and dismissed the case with prejudice on September 13, 2023. Plaintiff filed no objections to the Recommendation and did not appeal the judgment; nearly two years later, he moved to reopen the case based on subsequent Eleventh Circuit decisions concerning special-report procedures.

DISPOSITION

other

CASES CITED

- *Kister v. Borowicz*, 2025 WL 1013729 (11th Cir. Apr. 4, 2025) (per curiam)

- Chapman v. Dunn, 129 F.4th 1307 (11th Cir. 2025)
- Buck v. Davis, 580 U.S. 100 (2017)
- Gonzalez v. Crosby, 545 U.S. 524 (2005)
- Doe v. Drummond Co., 782 F.3d 576 (11th Cir. 2015)
- Ackermann v. United States, 340 U.S. 193 (1950)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION JOHN ANDREW KISTER,)) Plaintiff,)) v.) CASE NO. 2:20-cv-606-
ECM) [WO] PATRICE RICHIE JONES,)) Defendant.) O R D E R On September 13, 2023, this
Court entered a Memorandum Opinion and Order adopting the Magistrate Judge's
Recommendation, granting the Defendant's motion for summary judgment, and dismissing this
case with prejudice, along with a final judgment.

(Docs. 48, 49). In the Recommendation, the Magistrate Judge had construed the Defendants' answer and special report, which had been filed over two years earlier, as motions for summary judgment. (Doc. 47 at 2, 14). The Plaintiff did not file objections to the Recommendation. Now pending before the Court is the Plaintiff's pro se motion to reopen case (doc. 57), which the Court construes as a motion for relief under Federal Rule of Civil Procedure 60(b)(6).¹ The Plaintiff argues that the Court should set aside the final judgment and reopen the case because summary judgment was granted in favor of the Defendants based upon their special reports, and after final judgment was entered, the Plaintiff obtained from 1 The Plaintiff cites Rule 60(b)(6) in his motion.

(Doc. 82 at 1). the Eleventh Circuit the vacatur of a grant of summary judgment in another case based on problems with the special report procedures which were used in that case. See *Kister v. Borowicz*, 2025 WL 1013729 (11th Cir. Apr. 4, 2025) (per curiam).

The Plaintiff also cites a concurrence in *Chapman v. Dunn*, 129 F.4th 1307 (11th Cir. 2025), in which an Eleventh Circuit judge voiced concerns about the special report procedure employed in this Court. See *id.* at 1319–29 (Jordan, J., concurring).

The Plaintiff contends that the Court should reopen this case and allow him to file objections to the Recommendation based on the Eleventh Circuit's reasoning and conclusion in *Kister* and the *Chapman* concurrence. Rule 60(b)(6) authorizes the court to relieve a party from a final judgment for "any other reason that justifies relief." "[R]elief under Rule 60(b)(6) is available only in 'extraordinary circumstances.'" *Buck v. Davis*, 580 U.S. 100, 123 (2017) (quoting *Gonzalez v. Crosby*, 545 U.S. 524, 535 (2005)).

To warrant relief under Rule 60(b)(6), the moving party must not only show "'sufficiently extraordinary' circumstances," but also that "absent such relief, an 'extreme' and 'unexpected' hardship will result." *Doe v. Drummond Co.*, 782 F.3d 576, 612 (11th Cir. 2015) (citation omitted).

Although an intervening change in the law could be sufficiently extraordinary to justify Rule 60(b)(6) relief, a plaintiff's "lack of diligence in pursuing review of the [relevant] issue" precludes a finding of extraordinary circumstances. See *Gonzalez*, 545 U.S. at 537–38.

In *Gonzalez*, the Supreme Court concluded that the petitioner failed to show extraordinary circumstances where the district court had dismissed his federal habeas petition on statute of limitations grounds based on then-existing Eleventh Circuit precedent, and the Supreme Court subsequently reached a different conclusion on the limitations issue. *Id.* at 536–37.

The Court reasoned that the petitioner was not diligent in pursuing review of the statute of limitations issue after the district court ruled against him because he did not raise the issue in his application for a certificate of appealability ("COA"), "nor filed a petition for rehearing of the Eleventh Circuit's denial of a COA, nor sought certiorari review of that denial." *Id.* at 537.

The Court concluded that his lack of diligence "confirm[ed]" that the intervening change in the law was "not an extraordinary circumstance justifying relief from the judgment." *Id.* After careful review, the Court concludes that the Plaintiff has not shown entitlement to Rule 60(b)(6) relief. Beginning with his reliance on the Chapman concurrence, the concurrence did not work a change in law and thus is insufficient to establish extraordinary circumstances for this reason alone.

Additionally, the Court has little trouble concluding that the Plaintiff was not diligent in pursuing review of the special report procedures in this case based on *Kister* or the Chapman concurrence, assuming without deciding that either or both of those opinions amount to a change in the law.² First, the Plaintiff did not appeal this Court's grant of summary judgment.

Although the favorable ruling in *Kister*, the Chapman concurrence, or both may have made his decision not to appeal "mistaken in hindsight," the record supports the conclusion that his decision "had been free and voluntary." See *id.* at 538 (citing *Ackermann v. United States*, 340 U.S. 193, 198 (1950)).

Moreover, he waited nearly two years after judgment was entered—and approximately six months after the Eleventh Circuit's decision in *Kister*—to seek relief. To the extent the Plaintiff also relies on the majority opinion in Chapman, it does not alter the Court's conclusion. postjudgment relief in this Court.³ Therefore, on this record the Plaintiff fails to show extraordinary circumstances justifying relief from the judgment.

Accordingly, for the reasons stated, it is ORDERED that the Plaintiff's motion (doc. 57) is DENIED. This case remains CLOSED. DONE this 16th day of January, 2026. /s/ Emily C. Marks
EMILY C. MARKS CHIEF UNITED STATES DISTRICT JUDGE
³ The Court also observes that to date, the Plaintiff still has not filed objections or proposed objections to the Magistrate Judge's Recommendation.

