

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

J. Austin Russell v. Scotti A. Hill, Emily A. Lee, Sharadee Fleming,
and The Office of Professional Conduct

Russell · No. 2:25-cv-00614-RJS-DAO · Decided April 6, 2026

SUMMARY

The United States District Court for the District of Utah denied J. Austin Russell’s motion under Federal Rule of Civil Procedure 60(b)(1) and (6) for relief from an order dismissing his claims and denying leave to amend. The court held that Russell had not pleaded an actionable claim under 42 U.S.C. § 1983, had not established grounds for extraordinary relief, and could not support a proposed malicious-prosecution claim because he alleged no Fourth Amendment seizure and the underlying professional-conduct investigation was civil in nature.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Robert J. Shelby
JURISDICTION	United States District Court for the District of Utah
DECIDED	April 6, 2026
DOCKET	2:25-cv-00614-RJS-DAO
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 60(b)(1) and 60(b)(6) for relief from the court’s prior order dismissing his complaint and denying leave to amend.
STANDARD OF REVIEW	Relief under Federal Rule of Civil Procedure 60(b) is discretionary, extraordinary, and reserved for exceptional circumstances. Rule 60(b) (1) requires an excusable litigation mistake or a substantive mistake of law or fact, while Rule 60(b)(6) requires an extraordinary circumstance justifying relief.
PRECEDENTIAL VALUE	Unknown
PARTIES	J. Austin Russell v. Scotti A. Hill, Emily A. Lee, Sharadee Fleming, The Office of Professional Conduct

TOPICS

motion for reconsideration

subject matter jurisdiction

standing

section 1983

civil procedure

PRACTICE AREAS

civil procedure

constitutional law

civil rights

remedies

QUESTIONS PRESENTED

1. Whether Russell was entitled to relief under Federal Rule of Civil Procedure 60(b)(1) or 60(b)(6) based on his contention that the court should have treated his state-law abuse-of-process claim as a claim under 42 U.S.C. § 1983.
2. Whether the court's prior dismissal of the abuse-of-process claim for lack of federal subject matter jurisdiction was erroneous or inequitable.
3. Whether Russell was entitled to relief from the denial of leave to amend to add a federal malicious-prosecution claim.
4. Whether the proposed malicious-prosecution claim was futile because Russell did not allege injury in fact or a violation of the Fourth Amendment.

HOLDINGS

1. Rule 60(b)(1) relief was unavailable because the complaint plainly asserted abuse of process under Utah law, and Russell's failure to plead a § 1983 claim was a deliberate and counseled litigation decision rather than an excusable mistake or a judicial mistake of law or fact.
2. Rule 60(b)(6) relief was unavailable because Russell identified no extraordinary circumstance or post-judgment event making enforcement of the prior order inequitable.
3. Relief was properly denied because Russell supplied no new factual allegations showing injury in fact or identifying facts overlooked by the court.
4. The proposed malicious-prosecution claim was futile because Russell alleged neither detention nor another infringement of his Fourth Amendment rights, and the professional-conduct investigation was civil rather than criminal in nature.

KEY QUOTATIONS

“Excusable litigation mistakes are not those which were the result of a deliberate and counseled decision by the complaining party, but rather are litigation mistakes that a party could not have protected against, such as counsel acting without authority.”

“Though relief under the rule should be liberally construed when substantial justice will thus be served, it is extraordinary and reserved for exceptional circumstances.”

FACTUAL BACKGROUND

Russell, a California-licensed attorney who relocated to Utah, assisted his father with legal cases. The Utah Office of Professional Conduct investigated Russell for the unauthorized practice of law and his father for assisting him; the proceedings were later withdrawn or dismissed, and Russell was admitted to the Utah bar in

May 2024. Russell sued the Office and its employees, but his complaint pleaded abuse of process under Utah law rather than under 42 U.S.C. § 1983. He also sought to amend the complaint to add a federal malicious-prosecution claim without adding facts showing an injury in fact or a Fourth Amendment seizure.

PROCEDURAL HISTORY

Russell filed claims alleging denial of procedural due process, abuse of process, defamation, and intentional infliction of emotional distress against the Utah Office of Professional Conduct and related defendants. The court previously granted defendants' motion to dismiss, dismissed the state-law claims after declining supplemental jurisdiction, and denied leave to amend as futile because Russell had not alleged injury in fact sufficient to establish standing. Russell then moved for relief from that order, arguing that he had stated or could state federal claims under 42 U.S.C. § 1983. The court denied the Rule 60 motion.

DISPOSITION

other

CASES CITED

- Comm. on the Conduct of Att'ys v. Oliver, 510 F.3d 1219, 1223 (10th Cir. 2007)
- Yapp v. Excel Corp., 186 F.3d 1222, 1231 (10th Cir. 1999)
- Johnson v. Spencer, 950 F.3d 680, 701 (10th Cir. 2020)
- Cashner v. Freedom Stores, 98 F.3d 572, 579 (10th Cir. 1996)
- Wyatt v. Cole, 504 U.S. 158, 164 (1992)
- Gonzalez v. Trevino, 602 U.S. 653, 670 (2024) (Alito, J., concurring)
- Hartman v. Moore, 547 U.S. 250, 258 (2006)
- Heck v. Humphrey, 512 U.S. 477, 494-95 (1994)
- Rosser v. Rosser, 2021 UT 71, ¶ 52, 502 P.3d 294
- Pelican Production Corp. v. Marino, 893 F.2d 1143, 1146 (10th Cir. 1990)
- Margheim v. Buljko, 855 F.3d 1077, 1085 (10th Cir. 2017)
- Watson ex rel. Watson v. Beckel, 242 F.3d 1237, 1239-40 (10th Cir. 2001)

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