

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Jerrad Dupree Allen v. Cortez Summit, et al.

Allen v. Summit · No. 1:23-cv-01549-SAB · Decided December 16, 2025

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF
CALIFORNIA 10 JERRAD DUPREE ALLEN, Case No. 1:23-cv-01549-SAB 11 Plaintiff,
ORDER DENYING PLAINTIFF’S MOTION 12 TO REOPEN CASE AND DENYING v.
REMAINING MOTIONS AS MOOT 13 CORTEZ SUMMIT, et al., (ECF No. 46) 14 Defendants.
15 16 Currently before the Court is Plaintiff’s motion to reopen a closed case.

On October 16, 17 2025, the Court directed the Clerk of Court to close the file in this case and
adjust the docket to 18 reflect the stipulated dismissal of this action pursuant to Rule 41(a). (ECF
No. 43.) On October 19 30, 2025, Plaintiff filed a motion to reopen the case. (ECF No. 46.)
Defendants filed an 20 opposition on November 10, 2025. (ECF No. 47.)

Plaintiff filed a reply on November 24, 2025. 21 (ECF No. 51.) On December 2, 2025, Defendants
filed their response. (ECF No. 53.) 22 I. 23 BACKGROUND 24 Plaintiff proceeding pro se and in
forma pauperis filed this civil rights action on November 25 2, 2023. (ECF No. 1.) Plaintiff
amended his complaint on July 8, 2024. (ECF No. 13.) 26 Defendants filed their answer on
December 18, 2024.

(ECF No. 27.) On September 16, 2025, 27 Defendants filed their motion for summary judgment.
(ECF No. 37.) Plaintiff filed a motion to amend his complaint on October 1, 2025. (ECF No. 39.)
On October 14, 2025, Plaintiff filed a 1 notice of voluntary dismissal. (ECF No. 40.) 2 Upon
receiving the notice of voluntary dismissal, the Court directed Defendants to indicate 3 whether
they consented to the dismissal of the action or intended to proceed with summary 4 judgment.

(ECF No. 41.) Defendants subsequently filed a notice of consent. (ECF No. 42.) In 5 light of the
parties’ stipulation, the Court ordered the Clerk of Court to close the case. (ECF No. 6 43.) 7 On
October 27, 2025, Plaintiff filed two letters requesting that the Court order the release 8 of
information from the Department of Motor Vehicles and the Kern County Sheriff’s Office.

9 (ECF Nos. 44-45.) Three days later, Plaintiff filed a motion to reopen the case, asserting that
there 10 had been an issue with his mail and that the notice of voluntary dismissal was dated a
month prior 11 to the date it was received by the Court. (ECF No. 46.) Plaintiff further stated that
he did not 12 intend to dismiss the case, contending that the dismissal was “premature” and that he
wished to 13 withdraw his request for dismissal without prejudice due to “recently received

information,” as 14 well as “newly discovered information and information that has been refused to [him] due to his 15 continuous status as a pretrial detainee.” (Id.)

Plaintiff contends he contacted both this Court and 16 opposing counsel regarding this matter before the dismissal was filed. (ECF No. 51.) Defendants 17 filed their opposition on November 10, 2025. (ECF No. 47.) On November 12, 2025, Plaintiff 18 filed another motion to reopen the case, along with two motions requesting orders to release 19 information. (ECF Nos. 48-50.)

Plaintiff filed his reply to Defendants’ opposition on November 20 24, 2025. (ECF No. 51.) At the order of the Court, Defendants filed a response on December 2, 21 2025. (ECF No. 53.) 22 II. 23 LEGAL STANDARD 24 Federal Rule of Civil Procedure 60(b) provides for extraordinary relief and may be invoked 25 only upon a showing of “exceptional circumstances.” *Engleson v. Burlington N.R.*

Co., 972 F.2d 26 1038, 1044 (9th Cir. 1992). The moving party bears the burden of demonstrating that a basis for 27 Rule 60(b) relief exists. *Cassidy v. Tenorio*, 856 F.2d 1412, 1415 (9th Cir. 1988). Rule 60(b) 1 grounds of: “(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered 2 evidence that, with reasonable diligence, could not have been discovered...; (3) fraud...

3 misrepresentation, or misconduct by opposing party; (4) the judgment is void; (5) the judgment has 4 been satisfied...; or (6) any other reason that justifies relief.” Fed. R. Civ. P. 60(b). To obtain 5 relief under Rule 60(b)(2), a movant must show that the newly discovered evidence: (1) existed at 6 the time of the trial or order; (2) could not have been discovered through due diligence; and (3) 7 was of such magnitude that production of it earlier would have been likely to change the 8 disposition of the case.

Jones v. Aero/Chem Corp., 921 F.2d 875, 878 (9th Cir. 1990). 9 III. 10 DISCUSSION 11 First and foremost, this Court lacks jurisdiction over Plaintiff’s motion to reopen the case. 12 See *Cozzitorto v. W. Pac. Hous., Inc.*, 2006 WL 8459994, at *1 (N.D. Cal. Aug. 2, 2006) (finding 13 that the court lacked jurisdiction to reinstate plaintiff’s case where the case was dismissed without 14 prejudice); *Williams v. Kings Cnty.*

Dist. Att’y Off., 2023 WL 4086445, at *1 (E.D. Cal. June 20, 15 2023) (denying plaintiff’s request to reopen the case because voluntary dismissal “divest[ed] the 16 court of jurisdiction”). The act of filing a notice of dismissal under Federal Rule of Civil 17 Procedure 41(a)(1) “closes the file.” *Duke Energy Trading & Mktg., LLC v. Davis*, 267 F.3d 18 1042, 1049 (9th Cir.

2001). At that point, “the district court loses jurisdiction over the dismissed 19 claims and may not address the merits of such claims or issue further orders pertaining to them.” 20 Id. Voluntary dismissal has the “special, self-executing effect” of “leav[ing] the parties as though 21 no action

had been brought.” *United States v. Real Prop.* Located at 475 Martin Lane, Beverly Hills, CA, 545 F.3d 1134, 1145-46 (9th Cir.

2008) (quoting *Davis*, 267 F.3d at 1049). Although Plaintiff informed the Court and opposing counsel that he wished to withdraw his voluntary notice of dismissal, a dismissal under Rule 41(a)(1) becomes effective upon filing.

Accordingly, because Plaintiff’s notice of voluntary dismissal divested the Court of jurisdiction, the motion to reopen must be denied. Secondly, even if this Court had jurisdiction, Plaintiff has not demonstrated that relief is warranted as a pro se litigant, he merely asserts that his notice of voluntary dismissal was premature due to “newly discovered information” allegedly withheld from him because of his status as a pretrial detainee.

(ECF No. 46, p. 6.) However, Plaintiff neither identifies what this new information is nor explains how it justifies relief. This is insufficient under the applicable standard. See *Jones*, 921 F.2d at 878; see also *Gund v. Marion Cnty.*, 2025 WL 1069585, at *8 n.5 6 (finding that because plaintiff failed to articulate a cogent argument in support of granting relief, her request was denied under Rule 60(b)(2)).

In his reply, Plaintiff elaborates on his earlier assertions and identifies three grounds for relief under Rule 60(b)(1)-(3): (1) that his mail was tampered with; (2) that information concerning his psychological and cognitive impairment at the time of the incident, as well as documentation confirming that the vehicle he was driving rolled over, was withheld from him; and (3) that the body worn camera footage concerning the incident was altered and his medical records were falsified.

(ECF No. 51, pp. 11-13.) Even with this elaboration, however, the Court finds Plaintiff’s claims remain conclusory and unsupported. First, Plaintiff claims that he was surprised and had “no idea his mail would be intentionally held for almost a month and maliciously processed to negatively affect his case.” (*Id.* at p. 11.) Plaintiff attaches grievances made concerning the law library and his incoming and outgoing mail.

(*Id.* at pp. 20-43.) These grievances, standing alone, do not establish that any mail tampering occurred or that the institution maliciously processed his mail in a way that negatively impacted his case. Several “Answers to Inmate Grievances” indicate that Plaintiff’s mail was either received by him or sent out by the institution. (See *id.* at pp. 27, 29, 31.)

Moreover, the record reflects that Plaintiff has filed numerous motions and requests throughout the course of this litigation, undermining his claim that the alleged mail issues rise to the level of extraordinary circumstances. See e.g., *Barth v. Montejó*, 2021 WL 4147050, at *2 (E.D. Cal. Sep. 13, 2021) (“It does not appear that plaintiff is being prevented from sending mail as he was able to send the instant motion.”).

Thus, Plaintiff has not demonstrated grounds for relief under Rule 60(b)(1). 27 Second, Plaintiff asserts that he recently obtained information regarding his psychological 1 vehicle rolled over multiple times while he was driving. (ECF No. 51, pp. 11-12.) Plaintiff claims 2 he was “barred” from receiving these materials to review for over two and a half years, despite his 3 purported efforts to access them.

(Id.) However, Plaintiff has not shown that the evidence relied 4 upon constitutes “newly discovered evidence” within the meaning of Rule 60(b), that he exercised 5 due diligence in attempting to discover it, or that the newly discovered evidence would have been 6 likely to change the disposition of the case had it been discovered earlier. See *Jones*, 921 F.2d at 7 878.

Furthermore, Defendants’ counsel states that she received a packet of documents on April 23 8 and 24, 2025, which included a police report, audio files, body cam footage, photographs, 9 transcripts, and videos from Plaintiff’s criminal attorneys. (ECF No. 53, Heather Cohen 10 Declaration, ¶ 1, Ex. A.) Counsel also declares that Plaintiff provided medical records from Kern 11 County Hospital Authority and Kern Medical to opposing counsel on July 14, 2025.

(Id. at ¶ 2.) 12 Accordingly, Plaintiff has not shown that the evidence at issue constitutes newly discovered 13 evidence or otherwise demonstrated the requisite grounds for relief under Rule 60(b)(2). 14 Lastly, Plaintiff claims that he is entitled to relief under Rule 60(b)(3). “To prevail on a 15 Rule 60(b)(3), the moving party must prove by clear and convincing evidence that the [order] was 16 obtained through fraud, misrepresentation, or other misconduct...” *De Saracho v. Custom Food 17 Mach., Inc.*, 206 F.3d 874, 880 (9th Cir.

2000). “Rule 60(b)(3) ‘is aimed at judgments which were 18 unfairly obtained, not at those which are factually incorrect.” *Id.* (quoting *In re M/V Peacock*, 809 19 F.2d 1403, 1405 (9th Cir. 1987)). Here, Plaintiff claims the body worn camera footage was altered 20 and his medical records were falsified. (ECF No. 51, pp. 12-13.) Plaintiff states that “[his] 21 wounds were not tendered to, [his] ribs were broken, and [he] was not in [the] hospital from 22 0236hrs to 1016hrs.” (*Id.* at p. 13.)

Plaintiff, however, provides no further evidence or support to 23 substantiate these allegations, nor does he claim that the order to close this case was obtained 24 through such alleged fraud. As a result, Plaintiff has not presented evidence sufficient to justify 25 relief under Rule 60(b)(3). 26 Having considered Plaintiff’s claims under Rule 60(b)(1)-(3), the Court finds that Plaintiff 27 has not demonstrated that relief is warranted.

Accordingly, his motion to reopen the case is 1 IV. 2 ORDER 3 Based on the foregoing, it is HEREBY ORDERED that: 4 1. Plaintiff’s motion to reopen the case is DENIED (ECF Nos. 46, 48); and 5 2. Plaintiff’s remaining motions (ECF Nos. 44-45, 48-50) are DENIED as moot. 6 7 IT IS SO ORDERED. FA. Be g Dated: _ December 16, 2025 STANLEY A. BOONE 9 United States Magistrate Judge 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

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