

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, NORTHERN DIVISION

Donald Starke, Jr. v. Ergon Energy Partners, LP; Ergon Exploration,
Inc.; Steele Petroleum, Inc.; and Clifton S. Partridge

Starke · No. 3:25-CV-457-DPJ-ASH · Decided June 24, 2026

SUMMARY

The court denied Donald Starke, Jr.’s Federal Rule of Civil Procedure 60(b) motion to vacate a joint stipulation dismissing his federal personal-injury action without prejudice. The court held that Starke’s decision to dismiss the timely filed federal action and pursue the matter in Mississippi state court was a strategic choice that did not constitute mistake, fraud, misconduct, or extraordinary circumstances warranting relief. The court also found that defendants had not misrepresented or agreed to waive statute-of-limitations defenses.

CASE DETAILS

COURT	United States District Court for the Southern District of Mississippi, Northern Division
WRITING FOR THE COURT	Daniel P. Jordan III
JURISDICTION	United States District Court for the Southern District of Mississippi, Northern Division
DECIDED	June 24, 2026
DOCKET	3:25-CV-457-DPJ-ASH
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 60(b)(1), (3), and (6) to vacate a joint stipulation dismissing his federal negligence action without prejudice. The district court denied the motion.
STANDARD OF REVIEW	A district court's decision to grant or deny relief under Rule 60(b) is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Unknown
PARTIES	Donald Starke, Jr. v. Ergon Energy Partners, LP, Ergon Exploration, Inc., Steele Petroleum, Inc., Clifton S. Partridge

TOPICS

civil procedure

remedies

statute of limitations

negligence

PRACTICE AREAS

civil procedure

remedies

personal injury

negligence

QUESTIONS PRESENTED

1. Whether Starke was entitled to relief under Rule 60(b)(1) based on alleged mistake, inadvertence, or lack of contractual assent concerning his voluntary stipulation of dismissal.
2. Whether defendants' agreement to the dismissal constituted fraud, misrepresentation, or misconduct warranting relief under Rule 60(b)(3).
3. Whether extraordinary circumstances or manifest injustice warranted relief under Rule 60(b)(6).
4. Whether the court could apply Mississippi contract law to invalidate the stipulation after the dismissal deprived the court of subject-matter jurisdiction.

HOLDINGS

1. Rule 60(b)(1) does not provide relief from the consequences of a deliberate litigation decision merely because subsequent events reveal that the decision was unwise, including counsel's carelessness or misapprehension of the law or applicable rules.
2. The court lacked subject-matter jurisdiction to decide Starke's state-law arguments concerning the validity or enforceability of the stipulation after the unconditional dismissal; the proper vehicle for seeking relief was Rule 60(b).
3. Rule 60(b)(3) relief requires clear and convincing evidence that the adverse party engaged in fraud or misconduct and that the conduct prevented the movant from fully and fairly presenting his case; Starke made neither showing.
4. Rule 60(b)(6) relief is unavailable absent extraordinary circumstances or manifest injustice and may not be used to undo a free, calculated, and deliberate strategic decision.

KEY QUOTATIONS

“Where a party makes a considered choice . . . he cannot be relieved of such a choice under Rule 60(b) because hindsight seems to indicate to him that, as it turns out his decision was probably wrong.”

“Rule 60(b)(6) relief will be granted only if extraordinary circumstances are present.”

“Dismissing a timely filed suit in hopes of seeking a venue the plaintiff likes better is a strategic decision.”

FACTUAL BACKGROUND

Starke was injured on August 4, 2023, while working on a rig in Tyler, Texas, when a drill pipe split and struck his lower back. He filed claims in Texas, nonsuited them, and then filed a federal negligence action against the entities that owned and operated the well and a consultant. After learning that two defendants resided in Adams County, Mississippi, Starke's counsel sought and drafted a joint stipulation dismissing the federal action so he

could proceed in Mississippi state court. Defendants later moved to dismiss the state action as time barred under Texas's two-year limitations period.

PROCEDURAL HISTORY

Starke first filed an injury action in Texas state court and nonsuited it without prejudice. He then filed this diversity action in federal court, later amended to add Steele Petroleum and Clifton Partridge, and voluntarily sought a joint dismissal so he could refile in Mississippi state court. After defendants moved to dismiss the state-court action as barred by Texas's two-year limitations period, Starke moved to vacate the federal dismissal. The court denied relief under Rules 60(b)(1), (3), and (6).

DISPOSITION

other

CASES CITED

- Edwards v. City of Hou., 78 F.3d 983, 995 (5th Cir. 1996)
- Edward H. Bohlin Co., Inc. v. Banning Co., 6 F.3d 350, 356–57 (5th Cir. 1993)
- Pryor v. U.S. Postal Serv., 769 F.2d 281, 287 (5th Cir. 1985)
- National City Golf Finance v. Scott, 899 F.3d 412, 414–18 (5th Cir. 2018)
- SmallBizPros, Inc. v. MacDonald, 618 F.3d 458, 461 (5th Cir. 2010)
- In re Pettie, 410 F.3d 189, 193 (5th Cir. 2005)
- Fed.'s Inc. v. Edmonton Inv. Co., 555 F.2d 577, 583 (6th Cir. 1977)
- Whitaker v. Associated Credit Services, Inc., 946 F.2d 1222, 1226 (6th Cir. 1991)
- In re Isbell Recs., Inc., 774 F.3d 859, 869 (5th Cir. 2014)
- Washington v. Patlis, 916 F.2d 1036, 1039 (5th Cir. 1990)
- Gilmer v. McRae, 355 So. 3d 219, 225 (Miss. 2022)
- James v. Chase Manhattan Bank, 173 F. Supp. 2d 544, 550 (N.D. Miss. 2001)
- Hesling v. CSX Transp., Inc., 396 F.3d 632, 642 (5th Cir. 2005)
- Rozier v. Ford Motor Co., 573 F.2d 1332, 1346 (5th Cir. 1978)
- Yesh Music v. Lakewood Church, 727 F.3d 356, 358–63 (5th Cir. 2013)
- Rogers v. Boatright, 670 F. App'x 386, 387 (5th Cir. 2016)
- Braswell v. Invacare Corp., 760 F. Supp. 2d 679, 685 (S.D. Miss. 2010)