

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

Mark A. Hill v. Jennifer Pell, et al.

Hill · No. 2:21-cv-4142 · Decided November 25, 2025

SUMMARY

The United States District Court for the Southern District of Ohio denied Mark A. Hill’s motion for relief from judgment under Federal Rule of Civil Procedure 60(b)(2), (3), and (6). The court held that newly discovered audio recordings, alleged fraud, and Hill’s arguments concerning protected-class status did not cure the defects in his § 1985 and § 1986 conspiracy claims or establish grounds for disturbing the prior judgment.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Eastern Division
WRITING FOR THE COURT	Algenon L. Marbley
JURISDICTION	United States District Court for the Southern District of Ohio, Eastern Division
DECIDED	November 25, 2025
DOCKET	2:21-cv-4142
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 60(b)(2), (3), and (6) for relief from the court's prior judgment dismissing his civil-rights conspiracy claims without prejudice. The court denied the motion.
STANDARD OF REVIEW	Relief under Rule 60(b)(2) requires due diligence and newly discovered evidence that is material, controlling, and clearly would have produced a different result. Rule 60(b)(3) requires an adverse party's deliberate act that adversely affected the fairness of the proceeding. Rule 60(b)(6) is reserved for exceptional or extraordinary circumstances and is subject to the policy favoring finality of judgments.
PRECEDENTIAL VALUE	unpublished district court opinion

TOPICS

motion for reconsideration

civil procedure

motions to dismiss

civil rights

constitutional law

PRACTICE AREAS

civil procedure

civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether newly discovered audio recordings warranted relief from judgment under Federal Rule of Civil Procedure 60(b)(2).
2. Whether alleged misrepresentations by defendants warranted relief from judgment under Rule 60(b)(3).
3. Whether Hill's assertion that the court applied an improper pleading standard warranted relief under Rule 60(b)(6).

HOLDINGS

1. The newly obtained recordings did not warrant relief because they were neither material nor controlling and would not have changed the prior dismissal of Hill's conspiracy claims.
2. The alleged misrepresentations did not warrant relief under Rule 60(b)(3) because they were not relevant to the grounds on which Hill's conspiracy claims were dismissed and did not adversely affect the fairness of the proceeding.
3. Hill was not entitled to Rule 60(b)(6) relief because reframing his prior arguments and asserting that criminal-defendant status was a protected class did not establish exceptional or extraordinary circumstances.

KEY QUOTATIONS

“Rule 60(b) cannot be used to circumvent the stringent requirements for post-conviction relief.” (III.A)

“Rule 60(b) is not a vehicle to give the losing litigant a second bite at the apple.” (III.C)

FACTUAL BACKGROUND

Hill, an Ohio inmate, was convicted of felonious assault after an August 25, 2018 altercation with Martie Jacobs. Hill alleged that several people involved in or possessing information about the incident conspired, in part because of Hill's race, to deprive him of civil rights. After the underlying civil-rights action was dismissed, Hill obtained recordings of interviews with witnesses and argued that the recordings showed undisclosed exculpatory information and fraud. The court concluded that the recordings did not cure the pleading deficiencies underlying the dismissal.

PROCEDURAL HISTORY

Hill filed the action on August 11, 2021, asserting claims arising from his felony-assault prosecution and alleging a conspiracy to deprive him of civil rights. The magistrate judge recommended dismissal, and on March 11, 2024, the district court adopted the recommendation, granted Jennifer Pell's motion to dismiss, and dismissed

the claims against all defendants without prejudice. The Sixth Circuit affirmed. Hill then sought relief from judgment based on newly discovered recordings, alleged fraud, and asserted legal error; the district court denied the motion.

DISPOSITION

other

CASES CITED

- Good v. Edison Co., 149 F.3d 413, 423 (6th Cir. 1998)
- New Hampshire Ins. Co. v. Martech U.S.A., Inc., 993 F.2d 1195, 1200-01 (5th Cir. 1993)
- Davis v. Jellico Community Hosp., Inc., 912 F.2d 129, 135 (6th Cir. 1990)
- Info-Hold, Inc. v. Sound Merch., Inc., 538 F.3d 455, 455-56 (6th Cir. 2008)
- Jordan v. Paccar, Inc., WL 528950, at *6 (6th Cir. 1996)
- Zagorski v. Mays, 907 F.3d 901, 904 (6th Cir. 2018)
- Stokes v. Williams, 475 F.3d 732, 735 (6th Cir. 2007)
- West v. Carpenter, 790 F.3d 693, 696-97 (6th Cir. 2015)
- McGuire v. Warden, Chillicothe Corr. Inst., 738 F.3d 741, 750 (6th Cir. 2013)
- Jones v. Bradshaw, 46 F.4th 459, 482 (6th Cir. 2022)
- Ford Motor Co. v. Mustangs Unlimited, Inc., 487 F.3d 465, 468 (6th Cir. 2007)
- Coleman-Bey v. Bouchard, 287 F. App'x 420, 421 (6th Cir. 2008)
- Blue Diamond Coal Co. v. Trs. of the UMWA Combined Benefit Fund, 249 F.3d 519, 524 (6th Cir. 2001)
- In re West, 103 F.4th 417, 420 (6th Cir. 2024)
- Kline v. Mortg. Elec. Registration Sys., Inc., 704 F. App'x 451, 466 (6th Cir. 2017)
- Bryant v. Allied Universal Security Services, 2019 WL 6317319, at *2 (N.D. Ohio Nov. 26, 2019)

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF OHIO EASTERN DIVISION MARK A. HILL,: Petitioner,: Case No. 2:21-cv-4142 v.: Judge Algenon L. Marbley: Magistrate Judge Caroline H. Gentry JENNIFER PELL, et al.,: Defendant.: OPINION & ORDER This matter comes before this Court on Plaintiff Mark A. Hill's Motion for Relief from Judgment under Rule 60(b) of the Federal Rules of Civil Procedure.

(ECF No. 61). For the reasons explained below, the motion is DENIED. I. BACKGROUND Plaintiff, an Ohio inmate proceeding pro se, initiated this action against Defendants Jennifer Pell, Scott Crawford, Brittany Hamm,¹ Rita Hamm, Anita Hamm, and Eric Kovachs. Mr. Hill asserts various grounds for relief stemming from the Defendants' alleged involvement in Mr. Hill's felonious assault conviction.

The facts of this case are set forth at length in the Court's March 11, 2024, Opinion & Order (ECF No. 51) adopting the Magistrate Judge's Report and Recommendation ("R&R") (ECF No. 45), recommending that this Court grant Defendant Pell's Motion to Dismiss without prejudice (ECF No. 33), deny Plaintiff's remaining motions (ECF Nos. 26, 27, 43, 41), and dismiss Plaintiff's claims against all Defendants without prejudice.

1 Because Defendants Brittany Hamm, Anita Hamm, and Rita Hamm share a last name, this Court refers to these individuals by their first names. A. Factual Background On August 25, 2018, Defendant Brittany Hamm requested that Mr. Hill, her then-boyfriend, pick her up from her grandmother's, Defendant Rita Hamm's, house. (Compl., ECF No. 1 at ¶ 5). Brittany informed Mr. Hill that Martie Jacobs propositioned her sexually and then physically assaulted her.

(Id. at ¶ 12). After seeing Brittany's black eye, Mr. Hill entered Rita's house to confront Mr. Jacobs. (Id.). Mr. Hill and Mr. Jacobs then indisputably got into a physical altercation. (Id. at ¶ 13). In Mr. Hill's view, Mr. Jacobs struck him in the face, to which Mr. Hill "responded with four (4) quick punches to Mr. Jacobs' face in self-defense." (Id. at ¶ 20).

But in Mr. Jacobs' view, as relayed to the Columbus Police, Mr. Hill "hit [Mr. Jacobs] twice in the face with a sledgehammer." (Id. at ¶ 15). Rita provided that she saw Mr. Hill inside Mr. Jacobs' room for "a while," after which she saw Mr. Jacobs laying on the bathroom floor covered in blood, but that she did not see anything between those events. (Id., Ex. C).

She reiterated Brittany's account of Mr. Jacobs' sexual propositioning. (Id.). A neighbor, Defendant Scott Crawford, contradicted this account, stating that Mr. Jacobs would not have propositioned Brittany, and that Brittany was lying. (Id., Ex. D). At trial, Mr. Hill was found guilty of felonious assault against Mr. Jacobs and was sentenced to twelve (12) years in prison.

(Id. at ¶ 30). Following trial, Mr. Hill learned of a potential undisclosed eyewitness to the August 25 incident between Brittany and Mr. Jacobs: a neighbor, Defendant Jennifer Pell. (Id. at ¶¶ 33, 35, 40-47; id., Ex. I). But Ms. Pell informed investigators that she did not want to be involved in the case. (Id. at ¶ 40).

In this present Complaint, Mr. Hill, who is Black, alleges that Defendants, who are White, conspired to deprive him of his civil rights. Mr. Hill takes issue with: (1) Mr. Jacobs' allegedly false testimony about the actions leading to Mr. Hill's arrest; (2) Brittany's failure to appear on time to testify in his defense; and (3) Defendant Pell and Crawford's eyewitness accounts of Mr. Jacobs' attack(s) on Brittany and lack of reporting of such.

(See generally ECF No. 1). B. Procedural History On August 11, 2021, Plaintiff filed a Complaint with this Court. (ECF No. 1). Defendant, Jennifer Pell, subsequently filed a Motion to Dismiss the Complaint. (ECF No. 33). Plaintiff filed a response in opposition. (ECF No. 37).

On December 28, 2023, the Magistrate Judge issued a Report and Recommendation (“R&R”), recommending that Defendant Pell’s Motion to Dismiss be granted and that Plaintiff’s conspiracy claims against all Defendants be dismissed without prejudice. (ECF No. 45).

On March 11, 2024, this Court entered an Order overruling Plaintiff’s objections (ECF No. 47) and adopting the Magistrate Judge’s Report and Recommendation. (ECF No. 51). Subsequently, Plaintiff appealed this Court’s Order to the Sixth Circuit arguing that this Court erred by rejecting his §§ 1985 and 1986 conspiracy claims for failure to state a claim, however, the Sixth Circuit affirmed this Court’s decision.

(ECF No. 59). Plaintiff now seeks relief from judgment pursuant to Federal Rule of Civil Procedure 60(b)(2), (3), and (6). (ECF No. 61). II. STANDARD OF REVIEW Under Federal Rule of Civil Procedure 60(b), a party may move for, and the Court may grant, relief from a final judgment, order, or proceeding for any of the following six reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment.

Fed. R. Civ. P. 60(b). In determining whether relief under Rule 60(b)(2) is warranted, the Sixth Circuit has noted that “a movant must demonstrate: (1) that it exercised due diligence in obtaining the information[;] and (2) [that] the evidence is material and controlling and clearly would have produced a different result if presented before the original judgment.” *Good v. Edison Co.*, 149 F.3d 413, 423 (6th Cir.

1998) (quoting *New Hampshire Ins. Co. v. Martech U.S.A., Inc.*, 993 F.2d 1195, 1200–01 (5th Cir.1993)) (quotation marks omitted). Further, such newly discovered evidence must have been in existence at the time or pertain to facts in existence at the time of the relevant legal proceeding. *Davis v. Jellico Community Hosp., Inc.*, 912 F.2d 129, 135 (6th Cir.1990).

Alternatively, Rule 60(b)(3) allows for relief in situations of fraud where an “adverse party committed a deliberate act that adversely impacted the fairness of the relevant legal proceeding [in] question.” *Info-Hold, Inc. v. Sound Merch., Inc.*, 538 F.3d 455, 455 (6th Cir. 2008) (quoting *Jordan v. Paccar, Inc.*, WL 528950, at *6 (6th Cir. 1996)).

The Sixth Circuit has defined fraud as “the knowing misrepresentation of a material fact, or concealment of the same when there is a duty to disclose, done to induce another to act to his or her detriment.” *Info-Hold, Inc.*, 538 F.3d at 456. Lastly, Rule 60(b)(6) serves as a catchall provision that “vests courts with a deep reservoir of equitable power to vacate judgments ‘to

achieve substantial justice’ in the most ‘unusual and extreme situations.’” *Zagorski v. Mays*, 907 F.3d 901, 904 (6th Cir.

2018) (quoting *Stokes v. Williams*, 475 F.3d 732, 735 (6th Cir. 2007)). This provision “applies only in exceptional or extraordinary circumstances where principles of equity mandate relief.” *West v. Carpenter*, 790 F.3d 693, 696-97 (6th Cir. 2015) (citing *McGuire v. Warden, Chillicothe Corr. Inst.*, 738 F.3d 741,750 (6th Cir. 2013)).

Although courts have discretion in ruling on Rule 60(b) motions, that discretion “is circumscribed by public policy favoring finality of judgments and termination of litigation.” *Jones v. Bradshaw*, 46 F.4th 459, 482 (6th Cir. 2022) (quoting *Ford Motor Co. v. Mustangs Unlimited, Inc.*, 487 F.3d 465, 468 (6th Cir. 2007)). This principle is especially applicable to Rule 60(b)(6), “which applies only in exceptional or extraordinary circumstances which are not addressed by the first five numbered clauses of the Rule.” *Coleman-Bey v. Bouchard*, 287 F. App’x 420, 421 (6th Cir.

2008) (quoting *Blue Diamond Coal Co. v. Trs. of the UMW Combined Benefit Fund*, 249 F.3d 519, 524 (6th Cir.2001)). III. ANALYSIS A. Rule 60(b)(2) To support his Rule 60(b)(2) claim, Plaintiff asserts that on October 21, 2024, via Plaintiff’s fiancée’s public records requests, Plaintiff obtained audio recordings of interviews, conducted by the Columbus Police Department, of Martie Jacobs, Rita Hamm, and Brittany Hamm following the August 25, 2018, incident.

(ECF No. 61 at 5). Plaintiff specifically points to the fact that during the newly acquired recordings, both Rita and Brittany Hamm told investigators that neighbors across the street witnessed Martie Jacobs sexually proposition and assault Brittany. (*Id.*)

Accordingly, Plaintiff contends that the recordings support the “plausible inference[]” that Columbus Police also interviewed both neighbors across the street about the incident, Defendants Jennifer Pell and Scott Crawford. (*Id.* at 6). Further, Plaintiff asserts that these audio recordings were not previously provided to his defense counsel and therefore were undiscoverable at the time of trial.

(*Id.* at 5). Plaintiff argues that had the audio recordings been available at the time of this trial, the outcome would have been different. (See *id.* at 6-7). This Court previously upheld the Magistrate Judge’s Order finding that Plaintiff failed to state a claim for which relief could be granted because Plaintiff failed to allege a conspiratorial objective between the Defendants.

(ECF No. 51 at 7). This Court additionally expanded upon the R&R and opined that Plaintiff’s conspiracy claims fail as a matter of law because no Defendant is a state actor who could be held liable for constitutional violations under the Fifth and Fourteenth Amendments. (*Id.*). Lastly, this Court highlighted that the Sixth Amendment does not guarantee the appearance of witnesses at a trial, and thus Plaintiff failed to allege a constitutional violation related to Defendant Brittany Hamm failing to testify on his behalf at trial.

(Id.). Accordingly, Plaintiff's newly discovered evidence does nothing to uproot this Court's prior judgment in Plaintiff's conspiracy case. Although Plaintiff provides audio evidence that calls into question the veracity of the Defendants' various statements to investigators, such revelations do not cure Plaintiff's failure to state a claim in this case.

The new audio recordings only provide further support for the allegations that: (1) Defendants Rita and Brittany Hamm informed investigators of the witnesses across the street; and (2) Defendant Pell may have been interviewed by the Columbus Police.

In the Complaint, however, Plaintiff already alleged that Jennifer Pell had talked to investigators and did not wish to be involved. (ECF No. 1 at ¶¶ 33, 40). Therefore, this Court already considered allegations that Columbus Police likely interviewed Defendant Pell and was required to accept them as true when considering the sufficiency of Plaintiff's claims.

More importantly, the audio recordings do not provide further support as to the existence of a conspiracy between the Defendants which is a primary reason that Plaintiff's Complaint was deemed insufficient by this Court. Specifically, Plaintiff still fails to offer more than speculation that the Defendants engaged in a conspiracy about him based on his race or some other protected class membership.

Thus, such evidence is neither "material" nor "controlling" and it would not have "produced a different result" had he presented it prior to the motion to dismiss. *Good*, 149 F.3d at 423. Further, even if this Court were to accept Plaintiff's speculation that the Columbus Police failed to disclose potentially exculpatory witnesses to Plaintiff or his defense counsel, such evidence does not defeat the fact that none of the Defendants named in this case is a State actor who can be held liable for a constitutional violation.

Lastly, to the extent that Plaintiff argues that the audio recordings would have undermined the prosecution's theory at his trial, this Court need not entertain such arguments because "Rule 60(b) cannot be used to circumvent the stringent requirements for post-conviction relief." *In re West*, 103 F.4th 417, 420 (6th Cir. 2024).

As such, Plaintiff's newly discovered evidence does nothing to alter this Court's judgment that Plaintiff failed to plead his §§1985 and 1986 claims. For these reasons, Plaintiff's Rule 60(b)(2) argument fails. B. Rule 60(b)(3) Turning next to Rule 60(b)(3), Plaintiff asserts that Defendants committed fraud by making various material misrepresentations to investigators and in responsive pleadings to the Complaint warranting relief from judgment.

(See generally ECF No. 61 at 6-8). As mentioned above, this Court dismissed Plaintiff's Complaint for failure to allege a conspiratorial objective and for failure to allege involvement of State actors. Thus, the alleged fraud Plaintiff points to is not relevant to the dismissal of Plaintiff's claims in this conspiracy case. Even in accepting that Plaintiff has identified various

inconsistencies that cast doubt on the veracity of the Defendants' recounting of events on August 25, 2018, such alleged fraudulent statements did not "adversely impact[] the fairness of the relevant legal proceeding" in which this Court assessed Plaintiff's conspiracy claims.

Info-Hold, Inc., 538 F.3d at 456. For these reasons, Plaintiff's Rule 60(b)(3) argument fails. C. Rule 60(b)(6) Lastly, Plaintiff requests relief from judgment under Rule 60(b)(6) because Plaintiff believes this Court failed to apply the proper legal standard and held him to a heightened pleading standard. (ECF No. 61 at 9). Specifically, Plaintiff contends that under §1985, a plaintiff is not required to allege racial animus but must allege discrimination based on membership in any protected class.

(Id. at 10). Accordingly, Plaintiff argues that this Court failed to acknowledge that he is a member of a protected class because he is a person accused of a crime. (Id.). Plaintiff's argument fails because in his Complaint he alleged that the Defendants discriminated against him on the basis of his race, not that he was discriminated against because he is a criminal defendant.

(ECF No. 1 at ¶¶ 54, 55); (Kline v. Mortg. Elec. Registration Sys., Inc., 704 Fed. Appx 451, 466 (6th Cir. 2017) ("Rule 60(b) is not a vehicle to give the losing litigant a second bite at the apple."); see also Bryant v. Allied Universal Security Services, 2019 WL 6317319 at * 2 (N.D. Ohio Nov. 26, 2019) ("Rule 60(b) does not permit parties to relitigate the merits of a claim or to raise new arguments that could have been raised in the initial complaint.").

Even in accepting Plaintiff's argument that he is the member of a protected class, the Complaint makes no allegations that Defendants have discriminated against him because of his status as a criminal defendant. Finally, Plaintiff merely reframing his initial arguments does not meet the "exceptional or extraordinary circumstances" requirement under Rule 60(b)(3).

Coleman-Bey, 287 F. App'x at 421. As such, Plaintiff's Rule 60(b)(6) motion is also denied. IV. CONCLUSION For the foregoing reasons, this Court DENIES Petitioner's Motion for Relief from Judgment (ECF No. 61). IT IS SO ORDERED. ALGENOWN L. MARBL UNITED STATES DISTRICT JUDGE DATED: November 25, 2025