

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JUDY PAREJKO,

Plaintiff,

v.

DUNN COUNTY CIRCUIT
COURT and the STATE OF
WISCONSIN,

Defendants.

ORDER

05-C-0267-C

In an order dated January 12, 2006, I dismissed this case under the doctrine of Younger abstention, because plaintiff can raise her challenges to the constitutionality of various Wisconsin statutes related to the dissolution of marriage in the context of the divorce proceedings in which plaintiff presently is engaged. Judgment of dismissal was entered on January 17, 2006. Now, plaintiff has filed a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59 and 60.

Once a case has been closed, a party seeking reconsideration of the order disposing of the case or the judgment may file one of two kinds of motions in the district court: a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59 or a motion for relief

from the judgment or order pursuant to Fed. R. Civ. P. 60. A motion for reconsideration is not the occasion for a party to complete the presentation of her case. Frietsch v. Refco, Inc., 56 F.3d 825, 828 (7th Cir. 1995). Rather, the purpose of Rule 59 is to allow the district court to correct its own errors, sparing the parties and appellate courts the burden of unnecessary appellate proceedings. Charles v. Daley, 799 F.2d 343, 348 (7th Cir. 1986). However, motions under Rule 59 must be filed within ten days of the entry of judgment. Fed. R. Civ. P. 59(b). A litigant's failure to meet the time limits of Rule 59 forecloses her from raising in the district court her assertions that errors of law have been made. United States v. Griffin, 782 F.2d 1393 (7th Cir. 1986).

As noted above, judgment was entered in this case on January 17, 2006. Computing ten days (excluding weekends) beginning on January 18, 2006, the deadline for filing motions under Rule 59 expired on January 31, 2006. Plaintiff filed her motion electronically on February 1, 2006, one day late. Therefore, plaintiff's motion pursuant to Fed. R. Civ. P. 59 must be denied as untimely. In any event, even if plaintiff's motion had been timely, there is nothing in the motion that persuades me that I made errors of law in dismissing her case.

Motions for relief from a judgment or order pursuant to Fed. R. Civ. P. 60 may be made "within a reasonable time." Under this rule, reconsideration is allowed to modify the judgment as follows.

Rule 60(a) permits amendment of a judgment where there are clerical mistakes in the judgment or other parts of the record. Plaintiff is not contending that she is entitled to amendment of the judgment because of clerical mistakes.

Rule 60(b)(1) and (2) permits a court to relieve a party from a final judgment, order, or proceeding because of "mistake, inadvertence, surprise, or excusable neglect," or "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)." Legal error is not a proper ground for relief under Rule 60(b), Gleash v. Yuswak, 308 F.3d 758, 761 (7th Cir.2002). Indeed, even a post-judgment change of law does not allow relief under Rule 60(b). Id., citing Norgaard v. DePuy Orthopaedics, Inc., 121 F.3d 1074 (7th Cir. 1997). In any event, neither of these provisions is applicable under the circumstances of this case.

Rule 60(b) (3), (4), and (5) deal with judgments that are erroneous because the defendants have engaged in fraud, misrepresentation, or other misconduct, the judgment is void or it has been satisfied. Plaintiff does not assert that any of these circumstances apply to his situation.

Rule 60(b)(6) permits relief from a judgment for "any . . . reason justifying relief from the operation of the judgment." However, this provision has been interpreted as applying in situations in which extraordinary relief is sought and requires a showing of exceptional circumstances, none of which have been shown to exist in this case. See, e.g., Kagan v.

Caterpillar Tractor Co., 795 F.2d 601 (7th Cir. 1986); Andrews v. Heinold Commodities, Inc., 771 F.2d 184 (1985). Accordingly, plaintiff's motion for reconsideration under Rule 60 must be denied.

ORDER

IT IS ORDERED that plaintiff's motion to alter or amend the judgment entered in this case on January 17, 2006 pursuant to Fed. R. Civ. P. 59 and 60 is DENIED.

Entered this 3rd day of February, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge