

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

ANTHONY TUCKER,

Plaintiff,

v.

WISCONSIN DEPARTMENT OF
CORRECTIONS, OAKHILL
CORRECTIONAL INSTITUTION,
DIAMONDBACK CORRECTIONAL,
JACKSON CORRECTIONAL
INSTITUTION, NORTHFORK
CORRECTIONAL FACILITY, PRAIRIE
CORRECTIONAL FACILITY, BUREAU
OF HEALTH SERVICES MEDICAL
DIRECTOR,

Defendants.

ORDER

06-C-066-C

Judgment of dismissal was entered in this case on February 15, 2006, after I screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A and concluded that his claim that defendants were deliberately indifferent to his serious medical needs was legally meritless. Now plaintiff has filed documents titled "Motion to Request Reconsideration" and "Motion to Add Defendant to Complaint and Amend." Both motions will be denied.

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. 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 him from raising in the district court his assertions that errors of law have been made. United States v. Griffin, 782 F.2d 1393 (7th Cir. 1986).

Motions for relief from a judgment or order pursuant to Fed. R. Civ. P. 60 may be made "within a reasonable time."

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 alleging that he 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)." Neither of these provisions is applicable under the

circumstances of this case.

Rule 60(b) (3), (4), and (5) are inapplicable as well. Plaintiff does not contend that the judgment and order are erroneous because the defendants have engaged in fraud, misrepresentation, or other misconduct; and he does not suggest that the judgment is void or that it has been satisfied.

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).

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).

Because plaintiff has proposed no legal basis upon which to reopen his case and allow him to amend his complaint to add a defendant, his motions will be denied.

ORDER

IT IS ORDERED that plaintiff's "Motion to Request Reconsideration" and "Motion

to Add Defendant to Complaint and Amend” are DENIED.

Entered this 19th day of June, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge