

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

JOHN W. MOORE,

Plaintiff,

v.

U. S. POSTAL SERVICE,

Defendant.

ORDER

10-cv-473-bbc

On June 8, 2011, I granted defendant United States Postal Service's motion for summary judgment on plaintiff John Moore's claim that defendant breached a contract to provide him access to a post office box in exchange for his payment of a fee. I concluded that plaintiff had failed to come forward with any evidence that he had been denied access to his post office box after making the proper payments for it.

Now before the court is plaintiff's motion to reopen his case "for reason of new evidence," dkt. #21, that I will construe as a motion for relief from judgment under Fed. R. Civ. P. 60(b). Rule 60(b) permits a court to relieve a party from a final judgment, order or proceeding because of "mistake, inadvertence, surprise, or excusable neglect," "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial" or "any other reason that justifies relief." Plaintiff contends that the case should be reopened because he has evidence that defendant is "obstructing" the payments that plaintiff has sent for

his post office box. As a result, plaintiff has not be able to receive payments for a funding drive he initiated on behalf of his lecture series.

I will deny plaintiff's motion. First, a Rule 60(b) motion must be made "within a reasonable time." Fed. R. Civ. P. 60(c)(1). Plaintiff does not explain why he waited more than six months to file his Rule 60 motion. Second, he fails to show that there would be a different outcome if the case were reopened. As I explained in the summary judgment opinion, the undisputed facts showed that plaintiff stopped making payments for his post office box in June 2010 and that defendant closed plaintiff's box officially in April 2011. The allegations in plaintiff's motion to reopen do not address or refute the court's findings or conclusions. Therefore, plaintiff has shown no reason why the court should vacate the judgment entered against him.

ORDER

IT IS ORDERED that plaintiff John Moore's motion to reopen this case, dkt. #21, is DENIED.

Entered this 31st day of January, 2012.

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