

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted March 17, 2025*

Decided March 20, 2025

BeforeFRANK H. EASTERBROOK, *Circuit Judge*THOMAS L. KIRSCH II, *Circuit Judge*CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 24-1324

FREDERICK S. KOGER,
*Plaintiff-Appellant,**v.*CHARLES E. KLEIDON, et al.,
*Defendants-Appellees.*Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:17-cv-09277

Martha M. Pacold,
*Judge.***ORDER**

Frederick Koger appeals the denial of his post-judgment motion to reopen a case that he dismissed with prejudice in 2018. The district court concluded that Koger's request was both untimely and unsupported by valid reasons to reopen. We affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

In 2014, Chicago police arrested Koger after a physical altercation with his daughter. Although Koger was released from custody and no charges were filed against him, the record of his arrest, including his mugshot, remained publicly available. In 2017, he discovered his mugshot online and sued the officers involved in his arrest for publishing the arrest report, violating his rights by arresting him without cause, failing to read him his *Miranda* rights, and inflicting emotional distress that resulted in post-traumatic stress disorder (PTSD). Koger soon moved to voluntarily dismiss the case with prejudice, though he maintained that he wanted his mugshot removed from the Internet. After confirming that Koger knew the defendants could not provide him with that relief, the court granted his motion and dismissed the case.

Four years later, in 2022, Koger moved to reopen the case. He argued that he had only agreed to dismiss his complaint because the defendants had promised to remove his mugshot from the Internet, but had not done so, and reiterated that he had suffered constitutional violations during his arrest. The district court construed the motion as arising under Federal Rule of Civil Procedure 60(b) and denied it. To the extent that Koger sought relief from the judgment dismissing his case based on mistake, newly discovered evidence, or misconduct by an opposing party, his request was too late. FED. R. CIV. P. 60(b)(1)–(3); (c)(1) (imposing one-year deadline on motions under Rule 60(b)(1)–(3)). Even if the request could be construed as arising under the catchall provision of Rule 60(b)(6), which generally permits a motion for relief from judgment for any other reason provided the motion is filed in a reasonable time, it failed. Many of the concerns Koger raised in the motion had been addressed at the time the case was dismissed, and none of his other concerns justified reopening the case. He did not appeal this decision.

In 2024, Koger filed a second post-judgment motion. Again, he sought to reopen his case. He re-asserted the arguments from the first motion to reopen and added that his PTSD caused him to mistakenly dismiss his case. He also requested that Judge Pacold, who had denied the first post-judgment motion, recuse herself. The court denied these motions, explaining that its reasoning from the first post-judgment motion to reopen still applied, Koger had raised no additional valid reasons to reopen the case, and he had provided no legitimate basis for Judge Pacold's recusal.

Koger appeals the denials of his 2022 and 2024 motions, arguing that the district court erred in denying them. We limited review to the 2024 denial because he had not timely appealed the 2022 decision. He does not contest this decision or argue that the court erred in denying his motion to recuse, so we do not address these topics. We

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review a denial of a motion under Rule 60 for abuse of discretion. *Motorola Sols., Inc. v. Hytera Commc'ns. Corp.*, 108 F.4th 458, 504 (7th Cir. 2024).

In his brief, Koger generally restates that his arrest was illegal and that his PTSD clouded his decision-making, causing him to erroneously seek dismissal of his case. But the district court did not abuse its discretion in concluding that these arguments did not justify reopening the case. The district court correctly concluded that to the extent that Koger's request for relief was predicated on mistake, newly discovered evidence, or misconduct, it was filed nearly five years too late. *See* FED. R. CIV. P. 60(b)(1)–(3), (c)(1); *In re Cook Med., Inc.*, 27 F.4th 539, 543 (7th Cir. 2022) (explaining that Rule 60(c)(1) imposes mandatory one-year deadline for motions invoking Rules 60(b)(1)–(3)). Moreover, to justify relief under Rule 60(b)(6), Koger would need to identify “extraordinary circumstances.” *Choice Hotels Int'l, Inc. v. Grover*, 792 F.3d 753, 754 (7th Cir. 2015). Koger's rehashing of the allegations he made in his original complaint, which take up most of his motions and appellate brief, are not extraordinary circumstances. *Karraker v. Rent-A-Center, Inc.*, 411 F.3d 831, 837 (7th Cir. 2005) (Rule 60(b)(6) motion is not appropriate vehicle to raise arguments that should have been made earlier). And Koger's argument that he mistakenly dismissed his case because of his PTSD is the kind of contention that would be addressed under 60(b)(1). *See Bell v. McAdory*, 820 F.3d 880, 883–84 (7th Cir. 2016). It cannot therefore be used to justify relief under 60(b)(6). *Kemp v. United States*, 596 U.S. 528, 533 (2022) (a person may seek relief under Rule 60(b)(6) only when Rules 60(b)(1)–(5) are inapplicable).

AFFIRMED