

NONPRECEDENTIAL DISPOSITION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 June 30, 2026*

Decided July 1, 2026

BeforeTHOMAS L. KIRSCH II, *Circuit Judge*JOHN Z. LEE, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 25-1892

TIMOTHY M. MAYBERRY,
*Plaintiff-Appellant,**v.*CASE MANAGER DEWYER, et al.,
*Defendants-Appellees.*Appeal from the United States District
Court for the Northern District of
Indiana, South Bend Division.

No. 3:22-CV-77 DRL-MGG

Damon R. Leichty,
*Judge.***ORDER**

Indiana prisoner Timothy Mayberry lost a lawsuit challenging the prison's legal-mail policies. Two years after entry of judgment, he sought relief under Federal Rule of Civil Procedure 60(b). The district court denied Mayberry's motion, concluding that it

* 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).

was untimely and that he had not established relief from judgment was warranted. The court later denied Mayberry's motion to reconsider that decision. We affirm.

Mayberry's underlying suit concerns the implementation of Indiana Department of Corrections Policy 02-01-103, which requires prison officials to copy incoming legal mail, shred the original, and give prisoners the copy. Mayberry alleged that in 2021, while he was housed at the Miami Correctional Facility, a case manager brought him legal mail, and he objected to the original being shredded. Because Mayberry refused to consent to the policy, the case manager did not deliver his mail. Mayberry alleged that similar incidents happened several more times.

In 2022, Mayberry sued, alleging the prison officials' actions violated his right to due process because his property—the original legal documents he received in the mail—was destroyed without due process. The district court screened his complaint under 28 U.S.C. § 1915A and dismissed it for failure to state a claim. The court gave Mayberry the opportunity to amend his complaint, but Mayberry failed to do so, even after the court extended his deadline twice. The court entered judgment in August 2022. Several months later, Mayberry filed two motions claiming to have filed an amended complaint in June 2022. The district court notified him that an amended complaint was never received.

Over two years after entry of judgment, in February 2025, Mayberry filed a Rule 60(b) motion, asserting that prison officials had negligently failed to deliver his amended complaint to the court. The court denied the motion, concluding that the prison staff's failure to deliver Mayberry's amended complaint fell under Rule 60(b)(1), and thus his motion for relief from judgment was untimely under Rule 60(c)(1)'s one-year deadline. Mayberry then filed a motion to reconsider, arguing that under *Tanner v. Yukins*, 776 F.3d 434 (6th Cir. 2015), his motion fell under Rule 60(b)(6) or, alternatively, the court could reopen his time to appeal under Federal Rule of Appellate Procedure 4(a)(6). The district court rejected both arguments, concluding that Mayberry had not shown the level of extraordinary circumstances needed to apply Rule 60(b)(6) and that it was too late for him to move to reopen his time to appeal under Rule 4(a)(6)(B)'s 14-day deadline.

Mayberry appeals. We review the denial of a Rule 60 motion under an "extremely deferential" abuse of discretion standard. *In re Cook Med., Inc.*, 27 F.4th 539, 542 (7th Cir. 2022) (quoting *Eskridge v. Cook County*, 577 F.3d 806, 808 (7th Cir. 2009)).

Mayberry first reasserts his argument that his motion should have been construed under Rule 60(b)(6) rather than Rule 60(b)(1). But we find no abuse of discretion here. Rule 60(b)(1) includes all grounds for relief based on “mistake, inadvertence, surprise, or excusable neglect.” In his Rule 60(b) motion, Mayberry specifically identifies “the negligence of prison officials” as the reason the district court did not receive his amended complaint. The district court did not abuse its discretion in categorizing Mayberry’s arguments as implicating “excusable neglect” under Rule 60(b)(1), because it adopted Mayberry’s own framing of the issue. And, because Rules 60(b)(1) and 60(b)(6) are mutually exclusive, *Blitch v. United States*, 39 F.4th 827, 833–34 (7th Cir. 2022) (collecting authority), the one-year time limit applicable to motions under Rule 60(b)(1) applies, FED. R. CIV. P. 60(c)(1), and Mayberry’s motion was untimely.

Mayberry also argues that Rule 60(b)(1) is applicable only to the mistakes of parties of record, but this is not correct. *See* FED. R. CIV. P. 60(b) advisory committee’s note to 1946 amendment (Rule 60(b)(1) “should include the mistake or neglect of others”); *see also Kemp v. United States*, 596 U.S. 528, 534 (2022) (holding Rule 60(b)(1) includes a judge’s legal errors).

Mayberry also maintains that because he timely submitted both his amended complaint and his motion to the prison mail room, the prison mailbox rule applies and the district court erred in entering final judgment without considering the documents he had filed. But the prison mailbox rule cannot help him here.

We have noted that in cases where the purported filing is not received by the court, application of the prison mailbox rule is constrained by a “limiting principle.” *Ray v. Clements*, 700 F.3d 993, 1011 (7th Cir. 2012) (habeas context). A prisoner needs to provide the district court with a sworn declaration that “identif[ies] the who, what, when, where, how, and why of his alleged delivery to a prison official ... *plus* some other corroborating evidence.” *Id.* (emphasis in original). Here, Mayberry attests that he submitted his motion to prison officials in February 2023 and January 2024. But he did not provide evidence to corroborate his claimed timely filing. Thus, the district court did not abuse its discretion in rejecting Mayberry’s unsupported assertions of timeliness.

AFFIRMED