

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JOSHUA J. ROBERTSON,

Plaintiff,

v.

CASE NO. 07-3162-SAC

STATE OF KANSAS, et al.,

Defendants.

O R D E R

This matter comes before the Court on plaintiff's motion for relief from judgment filed under Fed. R. Civ. P. 60(b)(4). Plaintiff alleges the judgment is void.

"A judgment is void only if the court which rendered it lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process of law." *United States v. Buck*, 281 F.3d 1336, 1344 (10th Cir. 2002) (internal quotation marks omitted). A court provides a litigant with due process where "fundamental prerequisites - particularly, adequate notice and opportunity to be heard - were fully satisfied." *Orner v. Shalala*, 30 F.3d 1307, 1310 (10th Cir. 1994).

Here, the Court summarily dismissed plaintiff's complaint for failure to state a claim for relief under 28 U.S.C. § 1915(e)(2)(B)(ii). The Court denied plaintiff's combined motion to alter or amend, for relief from judgment, and to amend the complaint on August 15, 2008, and the Tenth Circuit Court of Appeals affirmed the dismissal of the complaint on January 16, 2009.

Since then, the Court has considered and denied three motions for relief (Docs. ##34, 38, and 41) filed by the plaintiff. The present

motion does not argue that the Court lacked jurisdiction over the subject matter of the complaint or the parties. Instead, plaintiff appears to argue that he was entitled to notice under D. Kan. R. 56.1(f), which requires notice to a pro se party who opposes a summary judgment motion.

This matter was summarily dismissed under 28 U.S.C. § 1915(e), which allows a court to dismiss a case at any time if it determines that the action is frivolous or malicious, fails to state a claim for relief, or seeks monetary damages from a defendant who is immune from such relief. This dismissal was not subject to Fed. R. Civ. P. 56, which governs motions for summary judgment, or to D. Kan. R. 56.1, which requires a represented party seeking summary judgment against a party proceeding pro se to provide a form notice explaining the governing legal principles. The Court finds plaintiff has shown no ground to grant relief from judgment and will deny the motion.

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff's motion for relief from judgment (Doc. #44) is denied.

IT IS SO ORDERED.

DATED: This 19th day of October, 2018, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge