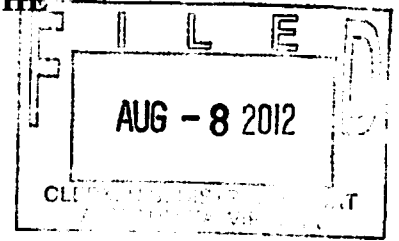


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



Keith Russell Judd,)
Plaintiff,)
)
v.)
)
State Board of Elections of Virginia, et al.,)
Defendants.)

1:11cv618 (JCC/TCB)

ORDER

Keith Russell Judd, a federal inmate proceeding pro se, filed this civil action pursuant to 42 U.S.C. § 1983, seeking declaratory and injunctive relief guaranteeing that his name will appear on the ballot for the 2012 Democratic presidential primary, a preliminary injunction compelling respondents to register all convicted felons to vote in the 2012 election, and a declaration that all state laws prohibiting convicted felons from voting are unconstitutional. By Order dated June 20, 2011, the claims against defendants were dismissed pursuant to 28 U.S.C. § 1915A(b)(1) as frivolous. Plaintiff appealed that result, but the appeal ultimately was dismissed for failure to prosecute pursuant to Local Rule 45. Now before the Court are plaintiff's (1) Motion for Relief from Judgment or Order Under Twenty Fourth Amendment, (2) Motion to Amend for Court Order to Register All Convicted and Incarcerated Felons to Vote in All Federal Caucuses and Democratic National Convention, and (3) Motion for Order to Remove Barack Obama from State's 2012 Presidential Primary Election Ballot/Caucus and Award All Delegates to Keith Judd. For the following reasons, the motions will be denied.

Liberally construing the pro se plaintiff's Motion for Relief from Judgment, as the Court is obliged to do, Haines v. Kerner, 404 U.S. 519, 520 (1972), it appears that plaintiff's motion to reopen the case can best be interpreted as requesting relief pursuant to Fed. R. Civ. P. 59(e)

and/or Fed. R. Civ. P. 60(b). Relief under Rule 59(e) is available only:

(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.

Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Because plaintiff has not demonstrated any of the above factors, his motion for relief under Rule 59(e) will be denied.

If plaintiff's motion is interpreted as seeking relief under Rule 60(b), plaintiff again is entitled to no relief. Relief under Rule 60(b) is available for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud ..., misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b).

Here, plaintiff requests this Court to reopen this action pursuant to the Twenty Fourth Amendment, and argues that the "Constitutional right to Vote in Federal Elections includes Caucuses and the Democratic National Convention, which is the only Primary in which a Vice Presidential Candidate is Elected in the Primary, and the only Election/Caucus where the Democratic Presidential Candidate is Elected." These allegations do not entitle plaintiff to relief pursuant to Rule 60(b), so his Motion for Relief from Judgment will be denied.

Plaintiff's Motion ... for Court Order to Register All Convicted and Incarcerated Felons to Vote is without merit for the reasons discussed in the Order of June 20, 2011. See Richardson v. Ramirez, 418 U.S. 24, 54 (1974) (holding that the denial of convicted felons' voting rights does not offend Due Process). Plaintiff's Motion to remove President Barack Obama from the 2012 ballot and to award all delegates to plaintiff, which is predicted on allegations that Obama was

not born in the United States and is not a United States citizen, will be denied as frivolous.

Accordingly, it is hereby

ORDERED that plaintiff's Motion for Relief from Judgment, construed as a motion for relief under Rule 59(e) and/or Rule 60(b) (Docket # 19) be and is DENIED; and it is further

ORDERED that plaintiff's Motion to Amend for Court Order to Register All Convicted and Incarcerated Felons to Vote in All Federal Caucuses and Democratic National Convention (Docket # 20) be and is DENIED; and it is further


ORDERED that plaintiff's Motion for Order to Remove Barack Obama from State's 2012 Presidential Primary Election Ballot/Caucus and Award All Delegates to Keith Judd (Docket # 21) be and is DENIED.

To appeal, plaintiff must file a written notice of appeal with the Clerk's Office within sixty (60) days of the date of this Order. See Fed. R. App. P. 4(a). A written notice of appeal is a short statement stating a desire to appeal this Order and noting the date of the Order plaintiff wants to appeal. Plaintiff need not explain the grounds for appeal until so directed by the court.

The Clerk is directed to send a copy of this Order to plaintiff.

Entered this 8 day of August 2012.

Alexandria, Virginia

 _____ /s/
James C. Cacheris
United States District Judge