

In the United States Court of Federal Claims

No. 05-726C

(Filed February 7, 2007)

KEITH RUSSELL JUDD,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER

On February 5, 2007, the Clerk's office received from Mr. Judd six different documents. That same day, the Court issued an order denying the motions submitted by Mr. Judd under Rules 59 and 60 of the Rules of the United States Court of Federal Claims ("RCFC"). That ruling moots the bulk of the documents received that day. Mister Judd, of course, cannot be faulted for having submitted these six documents, as his motions had not been denied at the time he mailed them. He is, however, cautioned that this case remains closed, and should not be the subject of any further motions on his part. The case was dismissed, the Federal Circuit affirmed the dismissal, and Mr. Judd has not provided any valid ground for overturning these decisions. *See* Order (Feb. 5, 2007). The Clerk is directed not to accept for filing in this case any documents subsequently submitted by Mr. Judd, other than notices of appeals or other appellate activity.

One document received on February 5 purports to be a "Notice of Motion to Recall Mandate and Stay Mandate in Federal Circuit No. 06-5047." This document states that a motion sent to the Federal Circuit was attached, but no such attachment accompanied the document. Nevertheless, the Clerk is directed to file this document.

Another document, previously returned to Mr. Judd for failure to comply with RCFC 5.3(d), *see* Order (Jan. 12, 2007), is his "Motion to Reopen Case Because the \$250.00 Filing Fee Has Been Paid in Full." As the Court explained to Mr. Judd in the January 12, 2007 order, the case was not closed because of the failure to pay the fee, but because jurisdiction was lacking. There is no ground for the filing of this irrelevant motion. The Clerk is directed to return the document to plaintiff.

A third document, also previously returned, is Mr. Judd's "Motion for Relief from Dismissal," which is based on his payment of the filing fee and the arguments rejected in the February 5, 2007 order. This purported motion is moot. The Clerk is directed to return the document to Mr. Judd. Another document previously returned -- Mr. Judd's "Supplemental Authority in Support of December 18, 2005, Rule 59(e) Motion, Filed by Mail Box Rule; and December 24, 2005, Rule 60(b) Motion Filed by Mail Pursuant to Fed. R. App. P., Rule 4(a)(4)(A) Ren[d]ering Notice of Appeal Ineffective" -- is similarly moot and should be returned to Mr. Judd.

A fifth document, submitted for the first time, is entitled "Supplemental Brief in Support of December 18, 2005, Rule 59(e) Motion and the December 24, 2005, Rule 60(b) Motion; Fed. R. App. P., Rule 4(a)(4)(A)." This document is rendered moot by the February 5, 2007 order. The Clerk is directed to return the document to Mr. Judd.

The sixth document is a "Motion to Transfer under 28 U.S.C. § 1631 if Court Finds Lack of Jurisdiction." The Clerk is directed to file this document. The motion is **DENIED**. The Court does not find that the interests of justice would be served by transferring the matter to another court. It appears from the very documents submitted by Mr. Judd that transfer of the matter would be futile. In his "Motion for Relief from Judgment," filed February 5, 2007, Mr. Judd states that an attorney "who signed the Pretrial Diversion Agreement, filed an action in the Fifth Circuit to dismiss the criminal case, WITH PREJUDICE, because [Mr. Judd] successfully completed the Pretrial Diversion Agreement." *Id.* at 15. Thus, it appears that the question of breach has already been determined on the merits at the Court of Appeals level. Moreover, Mr. Judd alleges that the reopening of his criminal prosecution breached the pretrial diversion agreement. According to a document attached to the aforementioned "Motion for Relief from Judgment," Mr. Judd's indictment occurred on August 19, 1998 -- which was more than six years prior to the filing of his lawsuit in this matter. *See* Order Construing and Denying Movant's Motion to Amend Motion to Vacate, *Judd v. United States*, MO-01-CA-121, MO-98-CR-093 (W.D. Tex., Mar. 12 2003) at 1 (attached to "Motion for Relief from Judgment"). Thus, the six-year statute of limitations for actions against the United States would, in any event, bar his action. *See* 28 U.S.C. § 2401.

Mister Judd is reminded that this matter is closed and that no further motions should be submitted by him in this case.

IT IS SO ORDERED.

VICTOR J. WOLSKI
Judge