

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1871

DEBORAH A. REDMAN,
Appellant

v.

UNITED STATES OF AMERICA; COMM'R CHARLES RETTIG;
MARJORIE GALLAGHER; LUCINDA COMEGYS; STEVEN MNUCHIN;
JANET YELLEN

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil Action No. 1-21-cv-00124)
District Judge: Honorable Cathy Bissoon

Submitted Pursuant to Third Circuit LAR 34.1(a)
November 1, 2023
Before: SHWARTZ, RESTREPO, and FREEMAN, Circuit Judges
(Opinion filed: December 8, 2023)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Pro se Appellant Deborah Redman appeals from the District Court’s text-only order dismissing her case and its order denying her motion pursuant to Federal Rule of Civil Procedure 60(b) to reopen the case. For the following reasons, we will affirm both orders.

In 2021, Redman filed a complaint in the District Court against the United States (“specifically, the [Internal Revenue Service (IRS)]”), the IRS Commissioner, and a former and then-current Treasury Secretary, among others. ECF No. 14 at 1. She sought “compensation for overpaid federal income taxes for tax years 2015 and 2016 and for the cost for wrangling with the [IRS]” for her returns. Id. at 2. Redman alleged that the IRS owed her \$15,000, in addition to “the associated income for over 1.5 years” that she “forfeit[ed]” while responding to the IRS. Id. at 4. She sought \$3.5 million in compensatory damages.

On March 21, 2023, shortly after the defendants were properly served, the presiding judge recused from the case because Redman had filed “an accusation of slander” against her, and the matter was reassigned to District Judge Cathy Bissoon. See ECF No. 59. That same day, Redman filed a “Motion to Move Case to the Court of Public Opinion,” which the District Court denied, stating that the relief sought was “not recognized in the law.” ECF Nos. 61 & 63. Redman filed a “Motion for Clarification,” disputing the denial of her motion and demanding that the IRS be directed to pay her \$250,000 “immediately” as “partial compensation” to allow her to “pay off much of her debts” while the litigation was pending. ECF No. 65 at 7. In a text-only order, the District Court denied the request as “inconsistent with the law.” ECF No. 66. In a

response filed challenging the “unsound reasoning” of that order, Redman asserted that “as a result of the destitution that the IRS and Court prefer to ignore, this is likely Redman’s last filing. She does not have means to continue . . . Plaintiff can no longer tend to this matter due to destitution.” ECF No. 67 at 5-6.

A week later, on April 19, 2023, Redman filed a “Notice of Inability to Continue to Participate in Any Way in This Proceeding” (“the Notice”), stating only that she could not continue with the litigation “[d]ue to the Court’s and Defendant IRS’s actions.” ECF No. 69. The District Court construed the document as a Notice of Voluntary Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). See 4/19/23 Docket Entry. Noting that defendants had neither answered the complaint nor filed a motion for summary judgment, the District Court indicated that the Notice was effective upon filing and that no court order was required.¹ See id. The text-only entry stated that the case was dismissed and marked closed. Id.

Four days later, on April 24, 2023, Redman filed a “Notice to Reopen Case and Assign to Neutral Judge,” ECF No. 71, which the District Court construed as a motion to reopen and denied. See ECF No. 72. It also denied the request for recusal as moot.

¹ Rule 41(a)(1)(A)(i) provides, in pertinent part, that a plaintiff “may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.”

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Redman appealed.²

The District Court properly construed the Notice as a Rule 41(a)(1) voluntary dismissal. The filing stated only that Redman was giving “notice that she can no longer continue to participate in any way in this proceeding.” Redman maintains on appeal that the Notice “should read” that she was unable to participate “in Any *Meaningful* Way” in her case. Reply Br. at 13. But it did not read as such, and although the District Court was required to construe Redman’s pleading liberally, see Haines v. Kerner, 404 U.S. 519, 520-21 (1972) (per curiam), it was not required to fill in the blanks for her. Redman had indicated that her filing prior to the Notice was likely her “last.” See ECF No. 67. When she filed the Notice a week later plainly indicating that she did not intend to continue with the matter, the District Court properly deemed it a voluntary dismissal. See generally Anago Franchising, Inc. v. Shaz, LLC, 677 F.3d 1272, 1276 (11th Cir. 2012) (explaining that, in determining whether party intended to voluntarily dismiss action, “the best indication of [a party’s] intent is the document itself”).

The District Court determined that it lacked subject matter jurisdiction to grant the motion to reopen, citing In re Bath & Kitchen Fixtures Antitrust Litig., 535 F.3d 161, 166

² We have jurisdiction pursuant to 28 U.S.C. § 1291. The notice of appeal designates both the order denying the Rule 60(b) motion and the text-only order dismissing the case, and was timely as to both orders. See Fed. R. App. P. 4(a)(1)(B). Although the voluntary dismissal was without prejudice, see Fed. R. Civ. P. 41(a)(1)(B), it is final for purposes of § 1291 because it appears that the statute of limitations has run on Redman’s claims. See Fassett v. Delta Kappa Epsilon (New York), 807 F.2d 1150, 1155 (3d Cir. 1986).

(3d Cir. 2008). But in that case, we held that a district court lacks authority to deny a notice of voluntary dismissal and then adjudicate the merits of the dismissed claim. See id. (noting that “[a] timely notice of voluntary dismissal invites no response from the district court and permits no interference by it”). Where, as here, a notice of voluntary dismissal has taken effect, the district court retains the authority to exercise its discretion to reinstate the voluntarily dismissed complaint under Federal Rule of Civil Procedure 60(b). See Williams v. Frey, 551 F.2d 932, 934-35 (3d Cir. 1977), abrogated in part on other grounds by Torres v. Oakland Scavenger Co., 487 U.S. 312 (1988); see also Yesh Music v. Lakewood Church, 727 F.3d 356, 359-63 (5th Cir. 2013) (collecting cases, including Williams); see also Halderman v. Pennhurst State Sch. & Hosp., 901 F.2d 311, 320 (3d Cir. 1990) (recognizing that “[a]ny time a district [court] enters a judgment, even one dismissing a case by stipulation of the parties, [it] retains, by virtue of Rule 60(b), jurisdiction to entertain a later motion to vacate the judgment on the grounds specified in the rule” (citation omitted)).

Where a district court fails to recognize its authority to act, we ordinarily remand the matter for it to consider the merits in the first instance. See Lasky v. Cont'l Prod. Corp., 804 F.2d 250, 255 (3d Cir. 1986). However, we may affirm on any basis supported by the record, see Murray v. Bledsoe, 650 F.3d 246, 247 (3d Cir. 2011) (per curiam), and will do so here because the District Court’s order makes clear that there was no basis for Rule 60(b) relief, see generally Lasky, 804 F.2d at 255 (declining to remand and “address[ing] the discretionary aspects of Rule 60(b)” where the district court’s order indicated that, even if it had jurisdiction, it would nevertheless deny relief).

Rule 60(b) provides for relief from a final judgment, order, or proceeding on various grounds. See Fed. R. Civ. P. 60(b)(1)-(6). In her motion to reopen, Redman did not invoke a specific ground for relief under Rule 60(b); she argued that the District Court “unjustifiably construed” the Notice as a Rule 41(a) motion. ECF No. 71 at 1. Even construed liberally, the only bases the motion arguably states for reopening concern “mistake,” pursuant to Rule 60(b)(1), or “extraordinary circumstances,” pursuant to Rule 60(b)(6).

As the District Court noted, it was “clear and unambiguous” from the Notice that Redmond did not intend to pursue the litigation further. The District Court therefore saw no “mistake” in its treatment of the Notice as a Rule 41(a) motion, nor, as previously discussed, do we. There is also nothing in the motion to reopen to warrant Rule 60(b)(6) relief. Even had the motion to reopen stated Redman’s regret for failing to state that she could not participate in the case in any “meaningful way,” it would still fail to demonstrate the kind of extraordinary circumstances necessary to justify vacating the dismissal order. See Budget Blinds, Inc. v. White, 536 F.3d 244, 255 (3d Cir. 2008) (noting that “extraordinary circumstances rarely exist when a party seeks relief from a judgment that resulted from the party’s deliberate choices”); see also Coltec Indus., Inc. v. Hobgood, 280 F.3d 262, 273 & n.15 (3d Cir. 2002) (explaining that Rule 60(b)(6) does

not provide a means “to escape the effects of a bargain [the movant] regretted in hindsight”).³

Based on the foregoing, we will affirm the District Court’s orders.⁴

³ The District Court denied Redman’s request to reassign the case to a “neutral judge” as moot. On appeal, she presses her arguments of judicial bias. We note our agreement with the District Court that there was no basis to support the District Judge’s recusal. See Liteky v. United States, 510 U.S. 540, 555 (1994) (noting that “judicial rulings alone almost never constitute a valid basis for a bias or partiality motion”).

⁴ Appellant’s motion for default judgment is denied.

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v.

UNITED STATES OF AMERICA; COMM'R CHARLES RETTIG;
MARJORIE GALLAGHER; LUCINDA COMEGYS; STEVEN MNUCHIN;
JANET YELLEN

(D.C. Civil Action No. 1-21-cv-00124)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, JORDAN, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, and CHUNG, Circuit Judges

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/Patty Shwartz
Circuit Judge

Dated: January 24, 2024
Lmr/cc: Deborah A. Redman
All Counsel of Record

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DEBORAH A. REDMAN,)
)
 Plaintiff,) Civil Action No. 21-124E
)
 v.) Judge Cathy Bissoon
)
UNITED STATES OF AMERICA,)
et al.,)
)
 Defendants.)

ORDER

Plaintiff's "Notice to Reopen Case and Assign to Neutral Judge" (Doc. 71) is construed as a Motion to Reopen, and it will be denied.

Plaintiff's filing at Doc. 69 was titled a "Notice of Inability to Continue to Participate in Any Way in This Proceeding," and the sum total of its contents read:

Due to the Court's and Defendant IRS's actions, Plaintiff Dr. Deborah A. Redman comes now and gives notice that she can no longer continue to participate in any way in this proceeding.

Doc. 69.

The notice was clear and unambiguous. *See Gorton v. Gardner Denver, Inc.*, 2022 WL 7579808, *6 (M.D. Pa. Oct. 13, 2022) (under Federal Rule 41(a)(1)(A)(i), clarity and lack of ambiguity are the controlling standards). On its filing, the Notice effectively dismissed the case, and the Court now lacks jurisdiction to decide the merits. *In re Bath & Kitchen Fixtures Antitrust Litig.*, 535 F.3d 161, 166 (3d Cir. 2008).

Under the circumstances, Plaintiff's request to reassign the case to a different judge is moot. Even were it not, Plaintiff's request – in essence – is one for recusal, and no legitimate

grounds have been identified. Disagreement with the undersigned's rulings does not suffice.

Securacomm Consulting, Inc. v. Securacom Inc., 224 F.3d 273, 278 (3d Cir. 2000).

Consistent with the foregoing, Plaintiff's Motion to Reopen (Doc. 71) is **DENIED**.

IT IS SO ORDERED.

April 25, 2023

s/Cathy Bissoon

Cathy Bissoon
United States District Judge

cc (via First-Class U.S. Mail):

Deborah A. Redman
17952 Cussewago Rd.
Meadville, PA 16335

cc (via ECF email notification):

All Counsel Currently of Record

03/21/2023	<u>61</u>	MOTION to Move Case to the Court of Public Opinion by DEBORAH A. REDMAN. (Attachments: # <u>1</u> Envelope) (kss) (Entered: 03/21/2023)
03/21/2023	<u>62</u>	NOTICE That Court Reporter Janis Ferguson and Judge Baxter Defamed Plaintiff by Asserting That She Intentionally Deprived the Court Reporter of Her Payment by DEBORAH A. REDMAN (Attachments: # <u>1</u> Envelope) (kss) (Entered: 03/21/2023)
03/21/2023		Case Reassigned to Judge Cathy Bissoon. (elt) (Entered: 03/21/2023)
03/21/2023	<u>63</u>	ORDER denying <u>61</u> Plaintiff's "Motion to Move Case to the Court of Public Opinion." Plaintiff's request is not recognized in the law. Signed by Judge Cathy Bissoon on 3/21/23. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (dcd) Staff note: a copy of this filing will be sent, via First-Class U.S. Mail, to Plaintiff's address of record. (Entered: 03/21/2023)
03/31/2023	<u>64</u>	ORDER. The Court has been advised as follows. Recently, Plaintiff transmitted a check to the Court Reporter, in the amount of \$63.50. The Court Reporter returned the check to Plaintiff, stating that no outstanding balance is due. Thereafter, Plaintiff re-sent the check to the Court Reporter. For the record, no outstanding balance is owed by Plaintiff to the Court Reporter, and the \$63.50 check will not be tendered for payment, but instead has been destroyed. Signed by Judge Cathy Bissoon on 3/31/23. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (dcd) Staff note: a copy of this filing will be sent, via First-Class U.S. Mail, to Plaintiff's address of record. (Entered: 03/31/2023)
04/03/2023	<u>65</u>	MOTION for Clarification by DEBORAH A. REDMAN. (Attachments: # <u>1</u> Envelope) (kss) (Entered: 04/03/2023)
04/03/2023	<u>66</u>	ORDER denying <u>65</u> Motion for Clarification. Plaintiff's request for immediate compensation is inconsistent with the law, and it is denied. The litigation process is governed by the Orders entered in this case. Defendants' deadline to answer or otherwise respond to the Amended Complaint is 4/27/23. See text Order dated 3/14/23 (Doc. 58). Once they do, the Court will enter order(s) regarding what is next. Plaintiff's dissatisfaction is noted, but the case will proceed in an orderly fashion, pursuant to the Court's instruction. Signed by Judge Cathy Bissoon on 4/3/23. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (dcd) Staff note: a copy of this filing will be sent, via First-Class U.S. Mail, to Plaintiff's address of record. (Entered: 04/03/2023)
04/11/2023	<u>67</u>	RESPONSE to <u>66</u> Order on Motion for Clarification, filed by DEBORAH A. REDMAN. (Attachments: # <u>1</u> Envelope) (kss) (Entered: 04/12/2023)
04/14/2023	<u>68</u>	ORDER Regarding Correspondence. The attached correspondence was received by the undersigned this date. It relates to the merits of a pending proceeding. It is posted to the docket in such proceeding, for such further action (if any) that the assigned judicial officer deems appropriate. The undersigned will take no further action, as this is a merits matter before another judge. Signed by Chief Judge Mark R. Hornak on 4/14/23. (Attachments: # <u>1</u> Envelope) (bdb) (Entered: 04/14/2023)
04/19/2023	<u>69</u>	NOTICE of Inability to Continue to Participate in Any Way in This Proceeding by DEBORAH A. REDMAN (Attachments: # <u>1</u> Envelope) (kss) (Entered: 04/19/2023)
04/19/2023		ORDER. Plaintiff's Notice (Doc. <u>69</u>), indicating that she no longer will participate in this case, is construed as a Notice of Voluntary Dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i). No Defendant has answered or filed a motion for summary judgment. Thus, Plaintiff's Notice was effective on filing, and no court order was required. The case has been dismissed, and it has been marked closed. Signed by Judge Cathy Bissoon on 4/19/23. Text-only entry; no PDF document will issue. This text-only

		entry constitutes the Order of the Court or Notice on the matter. (dcd) Staff note: a copy of this filing will be sent, via First-Class U.S. Mail, to Plaintiff's address of record. Link added to Errata filed at 70 . Modified text on 4/20/2023. (kss) (Entered: 04/19/2023)
04/20/2023	70	Errata re text Order entered on 4/19/23. Reason for Correction: docket number not assigned to text-Order issued on 4/19/23. The Order was effective as of 4/19/23, and is being reentered only for the purpose of assigning a docket number. ORDER. Plaintiff's Notice (Doc. 69), indicating that she no longer will participate in this case, is construed as a Notice of Voluntary Dismissal under Federal Rule of Civil Procedure 41(a)(1)(A) (i). No Defendant has answered or filed a motion for summary judgment. Thus, Plaintiff's Notice was effective on filing, and no court order was required. The case has been dismissed, and it has been marked closed. Signed by Judge Cathy Bissoon on 4/20/23. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (dcd) Staff note: a copy of this filing will be sent, via First-Class U.S. Mail, to Plaintiff's address of record. (Entered: 04/20/2023)
04/24/2023	71	NOTICE to Reopen Case and Assign to Neutral Judge by DEBORAH A. REDMAN (Attachments: # 1 Envelope) (kss) (Entered: 04/25/2023)
04/25/2023	72	ORDER. Plaintiff's "Notice to Reopen Case and Assign to Neutral Judge" (Doc. 71) is construed as a Motion to Reopen, and it is DENIED. Under the circumstances, Plaintiff's request to reassign the case to a different judge is moot. Even were it not, Plaintiff's request - in essence - is one for recusal, and no legitimate grounds have been identified. Disagreement with the undersigned's rulings does not suffice. SEE CONTENTS OF THE PAPER ORDER CORRESPONDING WITH THIS DOCKET ENTRY FOR ADDITIONAL ANALYSES. Signed by Judge Cathy Bissoon on 4/25/23. (dcd) Staff note: a copy of this filing will be sent, via First-Class U.S. Mail, to Plaintiff's address of record. (Entered: 04/25/2023)
05/01/2023	73	NOTICE of Grounds for Judicial Misconduct by DEBORAH A. REDMAN (Attachments: # 1 Envelope) (kss) (Entered: 05/01/2023)
05/10/2023	74	NOTICE OF APPEAL as to 72 Order, 70 Errata on Order to Terminate Civil Case, by DEBORAH A. REDMAN. The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. The Transcript Purchase Order form will NOT be mailed to the parties. The form is available on the Court's internet site. (Attachments: # 1 Envelope) (kss) (Entered: 05/10/2023)
05/12/2023	75	USCA Case Number 23-1871 for 74 Notice of Appeal, filed by DEBORAH A. REDMAN. USCA Case Manager Alicia (DOCUMENT IS RESTRICTED AND CAN ONLY BE VIEWED BY COURT STAFF) (ca3lmr) (Entered: 05/12/2023)