

Case No. _____

IN THE SUPREME COURT OF THE UNITED STATES

United State of America,

Respondent,

vs.

Keith Hager,

Petitioner.

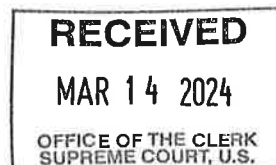
On Application for Extension of Time to File Petition
for a Writ of Certiorari to the United States Court of Appeals
for the Eighth Circuit.

Mr. Timothy T. Duax, Esq.
United States Attorney, Northern District of Iowa
Office of the United States Attorney
111 7th Avenue, S.E.
Cedar Rapids, Iowa 52401

Attorney for Respondent

Mr. Keith Hager
Reg. No. 45486-424
4700 Bureau Road South
Terre Haute, IN 47802

Mr. Keith Hager, pro-se.



IN THE SUPREME COURT OF THE UNITED STATES

To: The Honorable Brett M. Kavanaugh, Chief Justice for the United States Court of Appeals for the Eighth Circuit.

Re: *United States v. Hager*, 8th Cir. No. 2302823. Application for 60-day extension of time to file Petition for a Writ of Certiorari.

Comes Now, Petitioner Keith Hager, pro-se, and moves this Honorable Court for a 60-day extension of time to file his Petition for a Writ of Certiorari, which is currently due March 13, 2024. The final order affirming Petitioner Hager's Title 28 U.S.C. § 2255 judgment was entered on December 14, 2023. See Appendix A. See also, Appendix B.

As good cause, Petitioner Hager submits that an extension is needed to perfect and perform the desired petition. The prison he is incarcerated in just got off of lock-down, resulting in no access to the law library.

CONCLUSION

Petitioner Hager's request for 60-day extension to perfect and perform his Petition for a Writ of Certiorari should be allowed.

Respectfully submitted,



Mr. Keith Hager

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing motion for 60-day extension of time was served on the Respondent, Office of the United States Attorney, by delivering the same to the proper prison officials, first class postage prepaid, this 4th day of March, 2024,

Respectfully,



Mr. Keith Hager, pro-se.

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-2823

Keith Hager

Appellant

v.

United States of America

Appellee

Appeal from U.S. District Court for the Northern District of Iowa - Cedar Rapids
(1:17-cv-00060-LRR)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

December 14, 2023

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

United States Court of Appeals

For The Eighth Circuit

Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329

St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
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October 12, 2023

Keith Hager
U.S. PENITENTIARY
45486-424
P.O. Box 33
Terre Haute, IN 47808-0033

RE: 23-2823 Keith Hager v. United States

Dear Keith Hager:

Enclosed is a copy of the dispositive order entered today in the referenced case.

Please review Federal Rules of Appellate Procedure and the Eighth Circuit Rules on post-submission procedure to ensure that any contemplated filing is timely and in compliance with the rules. Note particularly that petitions for rehearing must be received by the clerk's office within the time set by FRAP 40 in cases where the United States or an officer or agency thereof is a party (within 45 days of entry of judgment). Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. Except as provided by Rule 25(a)(2)(iii) of the Federal Rules of Appellate Procedure, pro se petitions for rehearing are not afforded a grace period for mailing and are subject to being denied if not timely received.

Michael E. Gans
Clerk of Court

RMD

Enclosure(s)

cc: Mr. Dan Chatham
Mr. Clerk, U.S. District Court, Northern Iowa

District Court/Agency Case Number(s): 1:17-cv-00060-LRR

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-2823

Keith Hager

Pctitioner - Appellant

v.

United States of America

Respondent - Appellee

Appeal from U.S. District Court for the Northern District of Iowa - Cedar Rapids
(1:17-cv-00060-LRR)

JUDGMENT

Before COLLOTON, GRUENDER, and BENTON, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

The motion for appointment of special master is denied as moot.

The request for judicial notice is denied.

October 12, 2023

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

KEITH HAGER,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

No. 17-CV-60-LRR

No. 11-CR-143-LRR

ORDER

The matter before the court is Petitioner Keith Hager's ("the movant") "Motion for Relief From Final Judgment in § 2255 Proceeding Pursuant to Fed. R. Civ. P., Rule 60(b)(6)" ("the Motion"), which the Clerk of Court received on June 5, 2023 (civil docket no. 19).

On July 7, 2017, the court denied the movant's pro se § 2255 motion and denied the issuance of a certificate of appealability (civil docket no. 3). The movant filed a motion to amend (civil docket no. 4) which the court also denied (civil docket no. 6). The movant then filed a motion for a certificate of appealability (civil docket no. 7) which the court denied (civil docket no. 10). The movant applied to the Eighth Circuit for a certificate of appealability (civil docket no. 11) and was denied in October 2020. *Hager v. United States*, No. 20-2587 (8th Cir. 2020).

In the Motion, the movant asserts the court denied his § 2255 motion without an opinion. Motion at 2. He also asserts the court's opinion failed to reach the merits of his § 2255 motion and address any grounds for relief. *Id.* at 2-3. He asserts that the court failed to address all grounds of relief as required by law. *Id.* at 3. He states the undersigned denied the movant's "right to redress the government to redress grievances."

Id. at 3. Additionally, the movant asserts the undersigned “has been removed from the bench” for misconduct and should be removed from the case. *Id.* at 3-4.

Rule 60(b) of the Federal Rules of Civil Procedure provides that:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding 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 (whether previously called intrinsic or extrinsic), 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)(1)-(6). Rule 60(b)(6) is “available only when Rules 60(b)(1) through (b)(5) are inapplicable” and “[e]ven then, extraordinary circumstances must justify reopening.” *Kemp v. United States*, 142 S. Ct. 1856, 1861 (2022). Additionally, motions made pursuant to Rules 60(b)(1)-(3) must be made no more than a year after the entry of the judgment. Fed. R. Civ. P. 60(c)(1).

The movant’s first assertion is false; the court’s order denying his § 2255 motion is filed at civil docket no. 3. Next, the Motion is improperly made under Rule 60(b)(6) because it alleges the court made mistakes by not addressing the movant’s claims, failing to reach the merits, and denying his rights. A court’s errors of law are mistakes under Rule 60(b)(1) and thus subject to a 1-year limitations period. *Kemp*, 142 S. Ct. at 1862, 65 (“Rule 60(b)(1) covers all mistakes of law made by a judge”). Because the movant


only alleges mistake, the Motion is cognizable under Rule 60(b)(1) and subject to the 1-year limitations period. *Id.* The movant seeks relief from a judgment made in 2017; it is now 2023. Accordingly, those claims must be denied as untimely.¹ *Kemp*, 142 S. Ct. at 1865.

Lastly, the undersigned has not been removed from the bench for misconduct and declines to remove herself from the case. The movant's assertions are baseless. Regardless, the movant has failed to carry his burden of proof on the issue of recusal. He has presented no affidavit. *See Holloway v. United States*, 960 F.2d 1348, 1354-55 (8th Cir. 1992) ("Relief under [§] 144 is expressly conditioned on the timely filing of a legally sufficient affidavit.") In short, he has failed to provide any evidence rebutting the presumption of impartiality.

IT IS THEREFORE ORDERED:

- 1) The movant's "Motion for Relief From Final Judgment in § 2255 Proceeding Pursuant to Fed. R. Civ. P., Rule 60(b)(6)" (civil docket no. 19) is **DENIED**.

DATED this 6th day of July, 2023.



LINDA R. READE, JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA

¹ Moreover, the court briefly notes that the movant's claims are false. The court addressed the movant's ineffective assistance of counsel claims and also found that an evidentiary hearing was unnecessary (civil docket no. 2 at 1-4). Thus, even if it were timely, the court would deny the motion.

I, Keith Hager declare Under the
Penalty of Perjury that I mailed my
Request for extention of time, to file
Cert on, march, 3-2024 I dont know how
of why it took so long to make it to
the court's. Title 28. U.S.C. 1746 I swear
Under the Penalty ~~Of~~ Perjury this is true

Keith Hager

Keith Hager

