

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1464

TIMOTHY RYAN,
Appellant

v.

UNITED STATES OF AMERICA

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 1:23-cv-20815)
District Judge: Honorable Karen M. Williams

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6

August 1, 2024
Before: JORDAN, PORTER, and PHIPPS, Circuit Judges

(Opinion filed: August 8, 2024)

OPINION*

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

PER CURIAM

Appellant Timothy Ryan, proceeding pro se, appeals from the District Court's dismissal of his complaint and subsequent denial of his motion for reconsideration. We will summarily affirm.

Ryan filed suit in state court against the Federal Correctional Institute at Fort Dix, alleging that prison employees mishandled and lost his property during a prison move.¹ He sought compensatory damages. Because a tort claim against a federal agency must be brought under the Federal Tort Claims Act ("FTCA"), 28 U.S.C §§ 1346, 2671 et seq., the exclusive jurisdiction for which is federal district courts, *id.* at § 1346(b)(1), the Government removed the case to federal court pursuant to 28 U.S.C. § 1442(a)(1).² The District Court denied Ryan's request to remand, screened the complaint pursuant to 28 U.S.C. § 1915A, and dismissed it with prejudice as barred by sovereign immunity. Ryan filed a motion for reconsideration, which the District Court denied. He filed a timely notice of appeal.

We have jurisdiction under 28 U.S.C. § 1291. Our review of the District Court's sua sponte dismissal is plenary, Dooley v. Wetzel, 957 F.3d 366, 373 (3d Cir. 2020), and we review the denial of the motion for reconsideration for abuse of discretion, Santini v.

¹ Ryan alleged that he submitted an administrative tort claim prior to filing the complaint.

² The United States of America was substituted as defendant, pursuant to 28 U.S.C. §§ 1346(b)(1) and 2679(a). See CNA v. United States, 535 F.3d 132, 138 n.2 (3d Cir. 2008) ("The Government is the only proper defendant in a case brought under the FTCA.").

Fuentes, 795 F.3d 410, 416 (3d Cir. 2015). We review de novo the District Court's denial of remand. U.S. Express Lines, Ltd. v. Higgins, 281 F.3d 383, 388 (3d Cir. 2002). Upon review, we will affirm because no substantial question is presented on appeal. See 3d Cir. L.A.R. 27.4.

We agree with the District Court's dismissal of Ryan's complaint. The FTCA grants jurisdiction to district courts, and waives federal sovereign immunity over, "claims against the United States, for money damages . . . for injury or loss of property . . . caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred." 28 U.S.C. § 1346(b)(1). But the FTCA exempts from that waiver claims regarding the detention of property by "any officer of customs or excise or any other law enforcement officer." Id. at § 2680(c). That exception to the general waiver of sovereign immunity "sweeps as broadly as its language suggests," and applies to correctional officers' loss of a prisoner's items during a prison move.³ Ali v. Fed. Bureau of Prisons, 552 U.S. 214, 216, 226-28 (2008). The District Court thus correctly dismissed Ryan's FTCA claim as barred by sovereign immunity.

We also agree with the District Court's decisions to deny Ryan's request to remand and motion for reconsideration because Ryan did not present a basis for either.

³ Because Ryan's property was not "seized for the purpose of forfeiture," the exception to § 2680(c) does not apply. 28 U.S.C. § 2680(c)(1).

See 28 U.S.C § 1346(b)(1); Papp v. Fore-Kast Sales Co., Inc., 842 F.3d 805, 811-12 (3d Cir. 2016) (explaining the requirements for removal pursuant to § 1442(a)); Max's Seafood Café ex rel. Lou-Ann, Inc. v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999).

Accordingly, we will affirm the District Court's judgment.

DLD-163

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1464

TIMOTHY RYAN,
Appellant

v.

UNITED STATES OF AMERICA

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 1:23-cv-20815)
District Judge: Honorable Karen M. Williams

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
August 1, 2024

Before: JORDAN, PORTER, and PHIPPS, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted for possible dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B) and for possible summary action pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6 on August 1, 2024. On consideration whereof, it is now hereby


ORDERED and **ADJUDGED** by this Court that the judgment of the District Court entered December 4, 2023, be and the same hereby is **AFFIRMED**. All of the above in accordance with the opinion of this Court.

APPX. B p. 5

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: August 8, 2024

The seal of the United States Court of Appeals for the Third Circuit is circular. It features an eagle with spread wings perched atop a shield. The shield is divided into sections, with a constellation of stars in the upper left. The words "UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT" are inscribed around the perimeter of the seal.
Certified ~~as a true copy~~ and issued in lieu
of a formal mandate on October 3, 2024

Teste: *Patricia S. Dodszuweit*
Clerk, U.S. Court of Appeals for the Third Circuit

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

TIMOTHY RYAN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 23-20815 (KMW) (MJS)

MEMORANDUM ORDER

WILLIAMS, District Judge:

This matter comes before the Court on Plaintiff Timothy Ryan's reconsideration motion (ECF No. 8) which challenges the dismissal of his complaint. (ECF Nos. 5-6.) The scope of a motion for reconsideration of a final judgment brought pursuant to Rule 59(e) is extremely limited. *See Blystone v. Horn*, 664 F.3d 397, 415 (3d Cir. 2011). A Rule 59(e) motion may be employed "only to correct manifest errors of law or fact or to present newly discovered evidence." *Id.* "Accordingly, a judgment may be altered or amended [only] if the party seeking reconsideration shows at least one of the following grounds: (1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court [decided the motion], or (3) the need to correct a clear error of law or fact or to prevent manifest injustice." *Id.* (quoting *Howard Hess Dental Labs., Inc. v. Dentsply Int'l Inc.*, 602 F.2d 237, 251 (3d Cir. 2010)). In this context, manifest injustice "generally . . . means that the Court overlooked some dispositive factual or legal matter that was presented to it," or that a "direct, obvious, and observable" error occurred. *See Brown v. Zickefoose*, Civil Action No. 11-3330, 2011 WL 5007829, at *2, n. 3 (D.N.J. 2011).

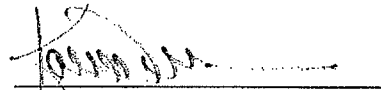
In his complaint, Plaintiff sought monetary damages for property which was lost during a prison transfer. This Court dismissed that claim with prejudice as the Supreme Court has expressly held that 28 U.S.C. § 2680(c) “forecloses lawsuits against the United States”, which stands in the place of its agencies and employees in Federal Tort Claims Act cases, “for the unlawful detention of property by ‘any,’ not just ‘some,’ law enforcement officers,” a category which includes employees of the Federal Bureau of Prisons. *Ali v. Federal Bureau of Prisons*, 552 U.S. 214, 228 (2008). As the seizing, mishandling, or loss of property during a prison transfer by BOP officials falls within this category, the statute bars suit under the FTCA for claims arising out of property lost during a prison transfer, such as those Plaintiff sought to bring. *Id.*; see also *Bowens v. U.S. Dep’t of Justice*, 415 F. App’x 340, 343 (3d Cir. 2011); *Johnson v. United States*, No. 16-622, 2016 WL 782937, at *2 (D.N.J. Feb. 29, 2016). Thus, this Court properly dismissed Plaintiff’s suit as it was barred by the statute. Plaintiff’s arguments to the contrary in his reconsideration motion are without merit in light of *Ali*’s clear holding that the bar in § 2680(c) “sweeps as broadly as its language suggests” and completely bars suit in the context of property damaged or lost during prison transfers. See *Bowens*, 415 F. App’x at 343. Plaintiff has failed to show that this Court’s ruling in any way committed a clear error of law or fact or caused a manifest injustice, and his motion for reconsideration is therefore denied.

IT IS THEREFORE on this 1st day of December, 2023,

ORDERED that the Clerk of the Court shall re-open this matter for the purposes of this Order only; and it is further

ORDERED that Plaintiff’s reconsideration motion (ECF No. 8) is **DENIED**; and it is finally

ORDERED that the Clerk of the Court shall serve a copy of this Order upon the Government electronically and on Plaintiff by regular mail, and shall **CLOSE** the file.




Hon. Karen M. Williams,
United States District Judge

MAR 18

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

<p>1. Location where the property loss or damage occurred: HEALTH SERVICES/ FCI FORT DIX</p>	<p>2. Name, address of claimant (Register number, street, city, state, and zip code): TIMOTHY RYAN #14422027 FCI FORT DIX PO Box 2000 JOINT BASE MDL NJ 08640</p>
<p>3. Date and Day of Incident: 8-23-2024 - FRIDAY AROUND 9PM</p>	<p>4. Time: (A.M. or P.M.): 9 PM (APPROXIMATELY)</p>
<p>5. Basis of Claim (State in detail the known facts and circumstances of the damage to, or loss, of privately owned property, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages, if necessary.):</p> <p>UPON BEING DISCHARGED FROM THE HOSPITAL AND RETURNING, I ASKED ABOUT MY MOSHIN SHOES (WHITE AND BLACK SIZE 12 NIKE INITIATORS-SIZE 12) THAT I WAS WEARING. THE ATTENDING NURSE CONFIRMED THAT SHE HAD THEM AT HEALTH SERVICES. LT KUMAR SAID "NO YOU DON'T" AND THEY ARGUED AS I WAS WHEELED BACK TO UNIT 5B12. I SAW KUMAR AND A COUPLE COMPOUND STAFF FOLLOW THE NURSE TO MEDICAL AS I GOT TO THE BUILDING. THE NEXT DAY I ASKED THE NURSE IF I COULD HAVE MY SHOES AND SHE TOLD ME THAT KUMAR AND COMPOUND STAFF CAME AND GOT THEM. KUMAR AND COMPOUND SAY THEY DON'T HAVE THEM AND NOBODY CAN FIND THEM.</p>	
<p>6. Witnesses (Please provide the name and address (number, street, city, state, and zip code of each witness): NURSE PADULA (JAMIE PADULA) PADULA 5756 HARTFORD & POINTVILLE RD FCI FORT DIX HEALTH SERVICES DEPARTMENT JOINT BASE MDL NJ 08640 (ADDRESS OF EMPLOYMENT)</p>	
<p>7. Amount of Claim for Damage to, or loss of, privately owned property (in dollars) (Sum Certain Amount - Total Amount Of Claim): \$69.95</p>	
<p>8. MAIL OR DELIVER CLAIM TO THE REGIONAL OFFICE WHERE THE CLAIM OCCURRED</p>	
<p>I CERTIFY THAT THE AMOUNT OF THE CLAIM COVERS ONLY DAMAGE TO, OR LOSS OF PRIVATELY OWNED PROPERTY CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.</p>	
<p>9. Signature of Claimant or Authorized Representative</p> 	<p>10. Date 9-8-2024</p>

APRX. D P. 1

SENT 11-7-2024

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1464

TIMOTHY RYAN,
Appellant

v.

UNITED STATES OF AMERICA

(D.N.J. No. 1:23-cv-20815)

SUR PETITION FOR REHEARING

Present: CHAGARES, *Chief Judge*, JORDAN, HARDIMAN, 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/ Peter J. Phipps
Circuit Judge

Date: September 25, 2024

CJG/cc: Timothy Ryan
Sophie Kaiser, Esq.
J. Andrew Ruymann, Esq.
John T. Stinson, Jr., Esq.

APPX. A P. 2