United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
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Lyle W. Cayce
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No. 23-40189

JOSHUA EDWARDS, *Individually and on behalf of others similarly situated*; FRANCISCO GUTIERREZ, *Individually and on behalf of others similarly situated*; HUMBERTO J. MORALES, *Individually and on behalf of others similarly situated*; RICKY MARTIN, *Individually and on behalf of others similarly situated*; ERNESTO FLORES, *Individually and on behalf of others similarly situated*; RODRIGO TARANGO, JR., INDIVIDUALLY AND ON BEHALF OF OTHERS SIMILARLY SITUATED, ET AL.

Plaintiffs—Appellees/Cross-Appellants,

versus

4JLJ, L.L.C., *doing business as* J4 OILFIELD SERVICES,

Defendant—Appellant/Cross-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:15-CV-299

Before HIGGINBOTHAM, HIGGINSON, and DUNCAN, *Circuit Judges*.

PER CURIAM:[*]

A panel of our court previously addressed the appeal of a jury verdict in favor of 4JLJ, L.L.C. in a suit by its employees under the Fair Labor Standards Act ("FLSA"). The panel initially reached the merits of the employees' appeal, *see Edwards v. 4JLJ, L.L.C.*, No. 19-40553, ECF 52 (5th Cir. 2020) (*Edwards I*), *withdrawn*, 976 F.3d 463, but withdrew its opinion on rehearing and dismissed for lack of jurisdiction due to an untimely notice of appeal, *see Edwards v. 4JLJ, L.L.C.*, 976 F.3d 463 (5th Cir. 2020) (*Edwards II*). On remand, the employees filed a Rule 60(b) motion seeking a new trial, which the district court granted. We conclude the district court abused its discretion by granting a motion embraced by Rule 60(b)(1) after the one-year limitation period. Accordingly, we REVERSE and REMAND with instructions to dismiss the employees' claims.

I.

In July 2015, a group of 4JLJ employees ("Employees") sued their employer for allegedly violating the FLSA's wage and hour mandates. After years of litigation, the jury found for 4JLJ, issuing a take-nothing verdict on February 26, 2019. That same day, the district court set a post-verdict motions deadline of March 12. On March 12, the Employees moved for judgment as a matter of law under Federal Rule of Civil Procedure 50. Without ruling on that motion, the district court entered final judgment on March 27, thus automatically denying the pending motion. *See Snider v. L-3 Commc'ns Vertex Aerospace, L.L.C.*, 946 F.3d 660, 667 (5th Cir. 2019),

[*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

abrogated on other grounds by Ben Keith Co. v. Dining All., Inc., 80 F.4th 695 (5th Cir. 2023).

On April 10, the Employees filed an identical Rule 50 motion. On April 26, the 30-day deadline to appeal the final judgment expired. *See* FED. R. APP. P. 4(a)(1)(A). The district court denied the second Rule 50 motion on May 20. On June 3, the district court issued a final order allocating costs. On June 12, the Employees filed a notice of appeal. This was more than 30 days after the entry of final judgment but within 30 days of the denial of the second Rule 50 motion. On June 24, 4JLJ timely cross-appealed the order allocating costs.

Briefing proceeded in this court, with 4JLJ arguing in part that we lacked appellate jurisdiction due to the Employees' late notice of appeal. A panel heard oral argument on March 4, 2020, and issued a decision in *Edwards I* on September 2, 2020. *See Edwards II*, 976 F.3d at 464. Treating the appeal deadline as waivable, the panel ruled for the Employees on the ground that their performance bonuses should have been included in the regular rate for overtime pay calculation. *Edwards I*, No. 19-40553, ECF 52 at *2, *6–8. On motion for rehearing, however, the panel withdrew its opinion and issued a revised opinion on September 21. The revised opinion held that the court largely lacked appellate jurisdiction given the late notice of appeal. *Edwards II*, 976 F.3d at 464–66.[1] The only issue left to be decided on remand

[1] The panel did decide 4JLJ's timely cross-appeal concerning apportionment of costs. *Id.* at 466–67.

was 4JLJ's right to pursue appellate costs. *See Edwards II*, No. 19-40553, ECF 78-1, at *2. The *Edwards II* mandate issued on October 13.[2] *Ibid.*

On September 3, 2021, the Employees filed a motion for new trial invoking Rule 60(b)(6) of the Federal Rules of Civil Procedure. Despite our mandate in *Edwards II*, the district court agreed a new trial was warranted for two reasons. First, the court thought there was no mandate as to the "merits" because *Edwards II* resolved the appeal on jurisdictional grounds. Second, the court reasoned that the now-withdrawn *Edwards I* opinion showed it had previously erred and "no interest [would] be served by this Court perpetuating an error in its adjudication." Accordingly, the court recalled its final judgment and granted a new trial.[3]

4JLJ moved for reconsideration or, alternatively, for permissive appeal under 28 U.S.C. § 1292. Although initially denying both requests, the district court later agreed to certify a permissive appeal concerning its "authority to grant a new trial under the procedural posture of this case." We agreed to hear the appeal.

II.

"[T]he decision to grant or deny relief under Rule 60(b) . . . will be reversed only for abuse of [] discretion." *Edwards v. City of Houston*, 78 F.3d 983, 995 (5th Cir. 1996) (en banc) (citations omitted). "A district court abuses its discretion if it bases its decision on an erroneous view of the law." *Hesling v. CSX Transp., Inc.*, 396 F.3d 632, 638 (5th Cir. 2005) (citation and

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[2] The parties subsequently litigated the issue of appellate costs in the district court from October 2020 to July 2021.

[3] The court, however, rejected the Employees' argument that "confusion" over appellate deadlines allegedly created by its February 26, 2019, scheduling order resulted in "manifest injustice," noting the Employees were aware of the deadlines and could have remedied any timeliness problem.

quotation omitted). Relief under Rule 60(b) is an extraordinary remedy. *Yesh Music v. Lakewood Church*, 727 F.3d 356, 363 (5th Cir. 2013).

III.

4JLJ advances three alternative arguments on appeal. First, it argues the Employees' motion was untimely because it really fell under Rule 60(b)(1) (which must be filed within one year) instead of 60(b)(6) (which must be made within a reasonable time). Second, it argues the district court erred by relying on our withdrawn *Edwards I* opinion as an extraordinary circumstance under Rule 60(b)(6). Third, it argues the district court erred by failing to heed our mandate in *Edwards II*. Because we hold that the Employees' motion fell under Rule 60(b)(1), we do not reach 4JLJ's second and third arguments.

4JLJ argues that, because the district court's stated reasons for relief are embraced by Rule 60(b)(1), the Employees' motion must have been filed within a year of the judgment and was therefore untimely. We agree.

Which subsection applies to a Rule 60(b) motion depends on why the movant seeks relief. *See, e.g.*, *United States v. Fernandez*, 797 F.3d 315, 318–19 (5th Cir. 2015). If the reason is a judge's mistake of law, 60(b)(1) applies. *See* FED. R. CIV. P. 60(b)(1) (covering "mistake[s]"); *Kemp v. United States,* 596 U.S. 528, 533–34 (2022) (explaining "a 'mistake' under Rule 60(b)(1) includes a judge's errors of law"). A Rule 60(b)(1) motion must be brought within a year of the judgment or order. FED. R. CIV. P. 60(c)(1). If 60(b)(1) applies, a movant cannot proceed under the catchall subsection, 60(b)(6). *Webb v. Davis*, 940 F.3d 892, 899 (5th Cir. 2019) (citation omitted).

The district court granted a new trial "to correct [the] clear error of law" discussed in the now-withdrawn *Edwards I* opinion. Relief for this reason—to correct a legal mistake—could have been sought only under 60(b)(1). *See Kemp*, 596 U.S. at 533–34; *Webb*, 940 F.3d at 899; *Fernandez*,

797 F.3d at 318–19.[4] The problem, however, is that the Employees failed to file their Rule 60(b) motion within a year of the judgment, as the rule requires. They filed their motion on September 3, 2021, but final judgment was entered over two years earlier on March 27, 2019.

Because the Employees' Rule 60(b) motion was untimely, the district court abused its discretion in granting it.

IV.

Accordingly, we REVERSE the district court's judgment and REMAND with instructions to dismiss the Employees' claims.

[4] The district court remarked that its scheduling order created confusion over the Employees' appellate deadlines, leading to their filing a late notice. But even assuming that is true, it does not change the fact that the district court granted relief to correct its previous legal mistake—which falls under Rule 60(b)(1).