

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 7, 2026

Thomas B. Plunkett, III
Clerk

No. 26-10362

FRANCISCO DERAS,

Plaintiff—Appellant,

versus

JOHNSON & JOHNSON SERVICES, INCORPORATED,

Defendant—Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:25-CV-812

Before JONES, SOUTHWICK, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Appellant Francisco Deras appeals the district court's denial of his motion to reopen a case that was dismissed for failure to comply with a local rule of the United States District Court for the Northern District of Texas.

On July 30, 2025, Deras filed the underlying suit against his employer, Johnson & Johnson, asserting claims under the Fair Labor Standards Act. On the same day, the district court issued counsel electronically issued a 14-day

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

notice under Local Rule 83.10(a). The rule provides that an attorney who does not live or keep an office in the district must, within 14 days, retain local counsel whose office or residence is within fifty miles of the courthouse where the action is pending. *See* N.D. TEX. CIV. R. 83.10(a). But Deras's attorney failed to appoint local counsel before the deadline and, on August 14, 2025, the district court dismissed the case without prejudice under Federal Rule of Civil Procedure 41(b). *See Campbell v. Wilkinson*, 988 F.3d 798, 800 (5th Cir. 2021) (explaining failure to comply with local rule may result in "dismissal of [the] case without prejudice and without further notice"). The dismissal order invited Deras to move to reopen the case "should this dismissal without prejudice function as a dismissal with prejudice."

That same day, Deras moved to reopen the case under Federal Rule of Civil Procedure 60(b)(1), including the required notice of appearance of local counsel. *See* FED. R. CIV. P. 60(b)(1) (authorizing district court to relieve a party from final judgment on grounds of "mistake, inadvertence, surprise, or excusable neglect"). He argued that counsel's mistake was "excusable" under the four-factor test from *Pioneer Ins. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380 (1993). *See id.* at 395–96 (considering "danger of prejudice," "length of delay and potential impact on judicial proceedings," "reason for the delay, including whether it was within the reasonable control of the movant," and "whether the movant acted in good faith"). The district court denied the motion, however, ruling Deras failed to show that dismissal without prejudice amounted to dismissal with prejudice. On August 19, 2025, Deras filed a second motion to reopen, which the district court again denied.

Deras appealed and we reversed. *See Deras v. Johnson & Johnson Servs., Inc.*, 169 F.4th 601, 602 (5th Cir. 2026). We ruled that the district court did not consider the relevant factors in determining whether Deras's

failure to retain local counsel was excusable and, as a result, abused its discretion in denying his Rule 60(b)(1) motions. *See Deras*, 169 F.4th at 605. We vacated those denials and remanded for further proceedings. *Ibid.*

On remand, the district court—while expressing disagreement with our ruling—nonetheless identified the *Pioneer* factors governing the excusable neglect inquiry under Rule 60(b)(1). The court then ruled that Deras’s proffered excuse for failing to designate local counsel amounted merely to “inadvertent mistake of counsel, that is, ignorance of the local rules and failure to make reasonable inquiry when put on notice.” Citing our precedents, the court concluded that such a mistake was insufficient to overcome our circuit’s “high bar” for Rule 60(b)(1) relief. *See, e.g., Williamson v. City of Morgan City*, 428 F. App’x 356, 357 (5th Cir. 2011); *Edward H. Bohlin Co. v. Banning Co.*, 6 F.3d 350, 356–57 (5th Cir. 1993); *Rayford v. Karl Storz Endoscopy Am., Inc.*, 740 F. App’x 435, 437 (5th Cir. 2018).

Deras again appeals. We review the denial of a Rule 60(b)(1) motion for abuse of discretion. *See Deras*, 169 F.4th at 603 (citing *Banning Co.*, 6 F.3d at 353). “The district court’s decision ‘need only be reasonable.’” *Ibid.*

Deras principally argues that the district court’s analysis on remand improperly made a single *Pioneer* factor (reason for delay) dispositive by failing to consider prejudice, length of delay, or good faith. We disagree. While Deras is correct that the order on remand focuses on the reason for delay, the court’s failure to explicate the other three factors does not rise to an abuse of discretion. This Court has previously held that *Pioneer* should not be read to change the “well-established rule that inadvertent mistake,...gross carelessness, ignorance of the rules, or ignorance of the law are insufficient bases for 60(b)(1) relief.” *In re Pettie*, 410 F.3d 189, 192 (5th Cir. 2005) (citing *Banning Co.*, 6 F.3d at 356-57). The district court here correctly identified the

relevant factors¹ and evidently determined that a single factor weighed so heavily in favor of denial that analysis of the others was not relevant. The court's analysis properly referenced our decision in *Banning Co.*, where we explained that "a court would abuse its discretion if it were to reopen a case under Rule 60(b)(1) when the reason asserted as justifying relief is one attributable solely to counsel's carelessness with or misapprehension of the law or the applicable rules of court." 6 F.3d at 357 (citing *Knapp v. Dow Corning Corp.*, 941 F.2d 1336, 1338 (5th Cir. 1991)).

We see no abuse of discretion in the court's basing its Rule 60(b)(1) denial principally on that factor. *See Bynum v. Ussin*, 410 F. App'x 808 (5th Cir. 2011) (denying Rule 60(b)(1) relief where attorney failed to provide a satisfactory reason for failure to file on time).

AFFIRMED.

¹ For that reason, we reject Deras's arguments that the district court failed to faithfully implement our court's mandate on remand and that the case should be reassigned to another judge.