

MAR 03 2008

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CLIFFORD RAMIRO MOSELEY,

Petitioner-Appellant,

v.

PASADENA UNIFIED SCHOOL  
DISTRICT, a public entity; IRENE  
QUINONES; DEBRA JENKINS  
DEBOSE; PERCY CLARK,

Defendants-Appellees.

No. 06-55597

D.C. No. CV-04-01973-RSWL

MEMORANDUM \*

Appeal from the United States District Court  
for the Central District of California  
Ronald S.W. Lew, District Judge, Presiding

Argued and Submitted February 8, 2008  
Pasadena, California

Before: PREGERSON, ARCHER \*\*, and WARDLAW, Circuit Judges.

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The Honorable Glenn L. Archer, Jr., Senior United States Circuit Judge for the Federal Circuit, sitting by designation.

Clifford Ramiro Moseley (“Moseley”) appeals the district court’s denial of his Rule 60(b) motion to vacate and set aside the court’s summary judgment in favor of the defendants.<sup>1</sup> We have jurisdiction pursuant to 28 U.S.C. § 1291. We review for abuse of discretion and reverse and remand.

“[T]he determination of whether neglect is excusable is an equitable one that depends on at least four factors: (1) the danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith.” Laurino v. Syringa Gen. Hosp., 279 F.3d 750, 753 (9<sup>th</sup> Cir. 2002) (quotation marks and citations omitted).

Moseley’s attorney, Gloria Dredd Haney (Haney), filed a motion for an extension of time to respond to the defendants’ summary judgment motion. In doing so, Haney mistakenly attached a proposed order to the motion in contravention of a local rule. The motion was not accepted for filing and returned to Haney. Upon becoming aware of this shortly before the hearing on the summary judgment motion, Haney attempted to renew her request for an extension

---

<sup>1</sup> All claims against Defendant Pasadena Unified School District (“PUSD”) were dismissed by the district court. The dismissal of these claims is not the subject of any appeal. The remaining defendants/appellees are Irene Quinones, Debra Jenkins Debose, and Percy Clark.

orally, but it was denied by the court. Because, in part, of Haney's inability to respond to the summary judgment motion in writing, the court granted summary judgment in favor of the defendants.

There is no evidence that the defendants were prejudiced by Haney's neglect. Additionally, it is clear that Haney acted in good faith when she attempted to secure an extension of time to respond to the defendants' motion for summary judgment. Under these circumstances, we conclude that Haney's neglect was excusable . Accordingly, we reverse the order denying Moseley's motion for relief from judgment and remand for further proceedings consistent with this decision.

**REVERSED AND REMANDED.**