

DOCKET NUMBER CV215001036 : SUPERIOR COURT
JAMYL MERCER : JUDICIAL DISTRICT OF
V. : TOLLAND AT SOMERS
COMMISSIONER OF CORRECTION : APRIL 18, 2024

ORDER ON MOTION TO REOPEN

Jamyl Mercer, the petitioner, has filed a motion to reopen the judgment of dismissal entered by the habeas court, *Newson, J.*, on March 27, 2023. The respondent has filed an objection. After a consideration of the circumstances, the court denies the motion to reopen.

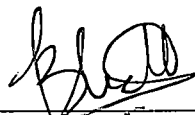
Briefly, Mercer filed a petition for a writ of habeas corpus on June 28, 2021. Counsel was appointed, but moved to withdraw in February 2023 on the basis that Mercer had been released from incarceration, but failed to maintain contact with counsel. After a hearing, Judge Newson granted the motion to withdraw and ordered Mercer to file an appearance within two weeks or the matter would be dismissed. Mercer did not file an appearance and the matter was dismissed. One year later, on March 27, 2024, Mercer filed a motion to reopen arguing that the case was dismissed without his knowledge or consent. The court held a hearing on April 18, 2024.

General Statutes § 52-212a provides that “[u]nless otherwise provided by law and except in such cases in which the court has continuing jurisdiction, a civil judgment or decree rendered in the Superior Court may not be opened or set aside unless a motion to open or set aside is filed within four months following the date on which the notice of judgment or decree was sent.” “Courts have interpreted the phrase, unless otherwise provided by law, as preserving the common-law authority of a court to open a judgment after the four month period. Although the law favors finality of judgments[,] our courts also have recognized that, in some situations, the principle of protection of the finality of judgments must give way to the principle of fairness and equity.” (Cleaned up.) *Clue v.*

Commissioner of Correction, 223 Conn. App. 803, 309 A.3d 1239, cert. granted, 348 Conn. 961, -- A.3d --, S.C. 21002 (2024). "It is well established that a judgment rendered may be opened after the four month limitation set forth in General Statutes § 52-212a and Practice Book § 17-43 if it is shown that the judgment was obtained by fraud, in the absence of actual consent, or because of mutual mistake." (Cleaned up.) Davis v. Hebert, 105 Conn. App. 736, 740, 939 A.2d 625, 628 (2008). Our Appellate Court has recently held in a case of first impression that the habeas "court's authority to grant a late motion to open a judgment, however, is not exclusively limited to those three recognized exceptions...;" Clue v. Commissioner of Correction, supra, 223 Conn. App. 815; extending that authority to allegations of ineffective assistance of counsel.

However, none of the identified reasons for reopening a judgment outside the four month period is implicated in this case. Mercer has not identified any duress, fraud, mutual mistake or ineffective assistance of counsel. Rather, the matter was dismissed because, upon release, he did not provide an updated address to counsel or the court and did not contact either until a year after.

The motion to reopen, therefore, must be denied.



Bhatt, J.

Copies to:

Jamyl Mercer w/pet cert / opteco - by mail
Attorney Silvina Bejleri - by JDVO
Judge Bhatt

by: Kathryn Stackpole, First Asst. Clerk
4/18/2024