

NOT FOR PUBLICATION

In the

United States Court of Appeals
For the Eleventh Circuit

No. 24-12798

Non-Argument Calendar

RANDY ALLEN HERMAN, JR.,

Petitioner-Appellant,

versus

FLORIDA DEPARTMENT OF CORRECTIONS,

Secretary, Florida Department of Corrections,

Respondent-Appellee.

Appeal from the United States District Court

for the Southern District of Florida

D.C. Docket No. 9:24-cv-80425-RAR

Before NEWSOM, LAGOA, and BRASHER, Circuit Judges.

PER CURIAM:

Randy Herman, a Florida prisoner proceeding pro se, appeals the district court's denial of his Federal Rule of Civil Procedure 59(e) motion to alter or amend its previous order granting his

motion to appeal the denial of his 28 U.S.C. § 2254 habeas corpus petition in forma pauperis (“IFP”) and imposing a lien on his prison trust fund account for the total filing fee of \$605. On appeal, Herman argues that 28 U.S.C. § 1915(b)(1), the provision of the Prison Litigation Reform Act (“PLRA”) that the district court cited in support of imposing the lien, does not apply to a habeas corpus proceeding based on our precedent.

We review a district court’s decision to grant or deny relief under Federal Rules of Civil Procedure 59(e) or Rule 60(b) for abuse of discretion. *MacPhee v. MiMedx Group, Inc.*, 73 F.4th 1220, 1238 (11th Cir. 2023). The only grounds for granting a Rule 59(e) motion are newly discovered evidence or manifest errors of law or fact. *Id.* at 1250.

We have held that “the PLRA was not intended to apply in habeas corpus.” *Anderson v. Singletary*, 111 F.3d 801, 805 (11th Cir. 1997). As such, the filing fee provisions of section 804(a) of the PLRA—codified in part at § 1915(b)(1)—do not apply in § 2254 proceedings. *Id.* at 806.

In light of our holding in *Anderson*, we conclude that the district court abused its discretion in applying the IFP filing fee provisions in § 1915(b)(1) to a habeas corpus proceeding. Accordingly, we vacate the district court’s order and remand with instructions for the district court to not apply the PLRA’s filing fee provisions to Herman’s § 2254 appeal and to return any portion of the appellate filing fee already paid by him.

VACATED AND REMANDED.