

		)	
<b>JULIO GOMEZ,</b>		)	
		)	
<b>Plaintiff,</b>		)	
		)	
<b>v.</b>		)	<b>Civil Action No. 06-1346 (ESH)</b>
		)	
<b>DEPARTMENT OF JUSTICE and</b>		)	
<b>FEDERAL BUREAU OF PRISONS,</b>		)	
		)	
<b>Defendants.</b>		)	
		)	

On January 16, 2007, plaintiff Julio Gomez filed with this Court a Motion for Relief from Judgment under Fed. R. Civ. P. 60(b)(2) and (3) [Dkt. # 19], which asks the Court to vacate its December 20, 2006 Order dismissing plaintiff’s complaint with prejudice.<sup>1</sup> Rule 60(b)(2) provides for relief from judgment where a party has presented “newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b).” Rule 60(b)(3) provides for relief based on “fraud . . . , misrepresentation, or other misconduct of an adverse party,” and the movant has the burden of proving such fraud “by clear and convincing evidence.” *Martin v. Howard Univ.*, No. 99-1175, 2006 WL 2850656, at \*3 (D.D.C. Oct. 4, 2006).

<sup>1</sup>Plaintiff's earlier Motion for Reconsideration under Fed. R. Civ. P. 59(e) was denied on January 8, 2007, because it failed to raise any new theories or facts to persuade the Court to vacate its prior holding.

photocopied page of the Federal Register, dated September 26, 1997. He offers no explanation as to why this “evidence” was not previously available to him. Plaintiff also asserts that he was previously mistaken in one of his citations to the Federal Register, and argues that defendants had a responsibility to “correct” *plaintiff’s* challenge to reflect the Federal Register citation that *plaintiff* intended to cite. This argument is nonsensical, and certainly does not constitute fraud, misrepresentation, or misconduct under Rule 60(b)(3).

Because plaintiff has presented no new evidence and no evidence of any fraud or misconduct by defendants, his motion is **DENIED**. And because plaintiff has now filed a Notice of Appeal under Fed. R. App. P. 4, no further motions will be considered by this Court.

**SO ORDERED.**

\_\_\_\_\_/s/  
ELLEN SEGAL HUVELLE  
United States District Judge

Date: January 25, 2007