

JAN 24 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

REGINALD C. HOWARD,

Plaintiff - Appellant,

v.

GOBEL; GARY HILL,

Defendants - Appellees.

No. 09-16620

D.C. No. 3:03-cv-00493-HDM-
RAM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Howard D. McKibben, District Judge, Presiding

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Reginald C. Howard, a Nevada state prisoner, appeals pro se from the district court's order denying his motion under Federal Rule of Civil Procedure 60(b) for relief from the order dismissing the action. We have jurisdiction under

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

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

28 U.S.C. § 1291. We review for an abuse of discretion, *Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097, 1100 (9th Cir. 2006), and we affirm.

The district court did not abuse its discretion by denying Howard's Rule 60(b) motion because Howard failed to prove by clear and convincing evidence that defendants engaged in fraud or other misconduct in connection with the settlement agreement, or to establish extraordinary circumstances or any other ground warranting relief from the order of dismissal. *See* Fed. R. Civ. P. 60(b); *Casey v. Albertson's Inc.*, 362 F.3d 1254, 1260 (9th Cir. 2004) (Rule 60(b)(3) requirements); *Latshaw*, 452 F.3d at 1103 (Rule 60(b)(6) requirements).

AFFIRMED.