

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re Armando Santos,

) **Misc. Action 10-mc-00032-KD-M**

Movant.

)

ORDER

This miscellaneous action is before the Court on the movant's motion for reconsideration of this Court's denial of his "Motion to Vacate Judgment Pursuant to Rule 36, in Pari Materia to Rule 60(b) Fed. R. Civ. Proc." (doc. 3). Santos moves the Court to reconsider its prior decision that it lacks jurisdiction over this action (see Order at doc. 2). Upon consideration and for the reasons set forth herein, the motion to reconsider is DENIED.

In general, a motion to reconsider is only available in the following limited circumstances: (1) "when a party presents the court with evidence of an intervening change in controlling law[; (2)] the availability of new evidence, or [(3)] the need to correct clear error or manifest injustice." Summit Medical Center of Alabama, Inc. v. Riley, 284 F.Supp.2d 1350, 1355 (M.D. Ala. 2003) (citation omitted). "[A] motion that merely republishes the reasons that had failed to convince the tribunal in the first place gives the tribunal no reason to change its mind." Calle v. U.S. Att'y Gen., 504 F.3d 1324, 1329 (11th Cir. 2007).

Santos argues that this Court's order denying his motion to vacate judgment pursuant to Rule 36 and Rule 60(b) is "factually incompetent, fraudulent claim, and intended to commit fraud upon the Court" (doc. 3, p. 1). In support, Santos argues that he sought only to transfer his Rule 60(b) motion but not his Section 2255 pleading. He also argues again that this Court may transfer his Rule 36 and Rule 60(b) motion pursuant to 28 U.S.C. § 1631 because this Court has jurisdiction. However, Santos does not present any new facts or legal argument which were not previously before the Court. Again, this Court does not have jurisdiction.

DONE and **ORDERED** this the 14th day of February, 2011.

s / Kristi K. DuBose
KRISTI K. DUBOSE
UNITED STATES DISTRICT JUDGE