

1 incarceration on the first degree murder charge, and 5 years on the evidence tampering
2 charge.¹

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4 The evidence against Thompson included a confession which his lawyer
5 argued was involuntary, having been made while Thompson was in custody and
6 without the benefit of a *Miranda* warning. Counsel was appointed to represent
7 Thompson on direct appeal of his conviction. The Alaska Court of Appeals affirmed
8 the conviction. The Alaska Supreme Court declined to consider the case.
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10 In 1991, Thompson's lawyer filed a petition for a writ of habeas corpus
11 pursuant to 28 U.S.C. § 2254. The issue presented was the validity of Thompson's
12 confession. In 1993, this court denied Thompson's petition. That decision was
13 affirmed by the Ninth Circuit. Both courts held that the state court's determination
14 that the confession was voluntary was entitled to the statutory presumption of
15 correctness. Thompson secured review in the United States Supreme Court. In
16 *Thompson v. Keohane*,² the Supreme Court ruled that it was error to accord the state
17 court's determination a presumption of correctness. Instead, the Supreme Court held
18 that whether the confession was voluntary was a mixed question of fact and law
19 requiring independent review by the federal habeas court. Thompson's petition,
20 therefore, was remanded to this court for independent review. After conducting an
21 independent review, this court again denied Thompson's petition.
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27 ¹ The trial court imposed the 5 year sentence to run consecutively to the 99 year sentence, but
28 the Alaska Court of Appeals later remanded the matter to the trial court for the limited purpose of
making the 5 year sentence concurrent with 99 year sentence.

² 516 U.S. 99 (1995).

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III. DISCUSSION

Thompson relies on Fed. R. Civ. P. 60(b). That rule lists six grounds that may support relief. Rule 60(c) establishes time limits which apply to motions made under Rule 60(b). Motions based on mistake, newly discovered evidence, and fraud must be brought within a year after the entry of judgment. Motions based on other grounds must be brought “within a reasonable time.”

Thompson was represented by competent counsel at every step of his petition’s procedural history. The pending motion relies on materials made available to his counsel and to Thompson personally prior to the end of 1996.³ Thompson argues that the judgment in this case is void because perjury by the law enforcement officers at the evidentiary hearing denied him due process of law and renders the court’s judgment void. Yet, this argument was available to Thompson and his counsel prior to the entry of judgment. Thompson offers not a scintilla of evidence that was not available to him prior to judgment. In essence, Thompson is now speculating that the officer’s testimony was perjured as to a material point. The current motion is no more than a rehash of arguments made by counsel years ago with Thompson’s dollop of perjury speculation added on top. A review of the record establishes that this court’s judgment is not void.

Thompson’s motion offers no explanation why it was filed more than 24 years after judgment was entered. While this court has not found any case comparable

³ Declaration of Carl K. Thompson, docket 103.

1 to this one in terms of the passage of time, the Supreme Court has noted that
2 “Rule 60(b)(4) does not provide a license for litigants to sleep on their rights.”⁴ Here,
3 where there is nothing new of any substance to support Thompson’s Rule 60(b)
4 motion, and the judgment clearly is not void, this court finds that filing the motion
5 more than 24 years after the judgment is unreasonable.
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8 **IV. CONCLUSION**

9 In sum, this court finds that Thompson’s Rule 60(b) lacks merit and that
10 it also is untimely. The motion at docket 101 is DENIED.

11 IT IS SO ORDERED this 5th day of August, 2021, at Anchorage, Alaska.

12
13 /s/ John W. Sedwick

14 JOHN W. SEDWICK

15 Senior United States District Judge
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⁴ *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 275 (2010).