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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RICKEY PAUL ABRAM,)	2:03-CV-01636
)	
Plaintiff,)	
)	ORDER RE: PLAINTIFF'S
v.)	MOTION TO SET ASIDE
)	JUDGMENT FOR FRAUD ON
)	THE COURT [36]
)	
UNITED STATES OF AMERICA,)	
et al.,)	
)	
Defendant.)	
)	
)	
)	

Currently before the Court is Plaintiff Rickey Paul Abram's ("Plaintiff") Motion to Set Aside Judgment for Fraud on the Court ("Motion") pursuant to Federal Rule of Civil Procedure ("Rule") 60(d)(3) [36]. Having reviewed all papers submitted pertaining to this Motion, the Court **NOW FINDS AND RULES AS FOLLOWS:** the Court **DENIES** Plaintiff's Motion.

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I. BACKGROUND

Plaintiff filed his Complaint on March 11, 2003 against the United States; U.S. Congress; U.S. Department of Justice; the County of Los Angeles, California; the County of Ventura, California; and the State of California (collectively, "Defendants") [3]. In his Complaint, Plaintiff appears to assert that Defendants failed to investigate complaints of civil rights violations under Title VI of the Civil Rights Act of 1964 occurring at the Chuckawalla Valley State Prison, where Plaintiff was a prisoner. Compl. 3:15-21, ECF No. 3.

On January 14, 2003, nine months after Plaintiff filed his Complaint, this Court dismissed the Action without prejudice for Plaintiff's failure to serve any Defendant. Order Dismissing Pl.'s Compl. 2:21-23, ECF No. 24. Plaintiff then filed his Notice of Appeal to the Ninth Circuit on March 11, 2004 [28]. On June 23, 2004, the Ninth Circuit ordered Plaintiff to pay the filing fees for his Appeal. See Mandate Re: Pl.'s Appeal 1, ECF No. 33. Following Plaintiff's failure to pay the filing fees, the Ninth Circuit dismissed Plaintiff's Appeal for failure to prosecute. Id.

Plaintiff filed his Motion on August 28, 2017 [36].

II. DISCUSSION

A. Legal Standard

Plaintiff cites to Federal Rule of Civil Procedure 60(d)(1),(2), and (3) as the basis for his Motion.

1 Rule 60(d) states that courts may (1) entertain an
2 independent action to relieve a party from a judgment,
3 order, or proceeding; (2) grant relief under 28 U.S.C.
4 § 1655 to a defendant who was not personally notified
5 of the action; or (3) set aside a judgment for fraud on
6 the court. Rule 60 calls for an equitable remedy, and
7 relief is reserved for only those instances where
8 necessary to "prevent a grave miscarriage of justice."
9 United States v. Beggerly, 524 U.S. 38, 47 (1998).

10 Rule 60(d)(1) and (2) are not relevant for
11 Plaintiff's Motion. Courts have interpreted Rule
12 60(d)(1) as allowing a party to file an entirely new
13 complaint.¹ Reiffin v. Microsoft Corp., No. C 11-03505
14 CRB, 2011 U.S. Dist. LEXIS 124027, at *7-8 (citing Wood
15 v. McEwen, 644 F.2d 797, 801 (9th Cir. 1981)). Rule
16 60(d)(2) grants relief under 28 U.S.C. § 1655 to
17 defendants not personally notified in a lien
18 enforcement action. Inland Concrete Enters. v. Kraft,
19 318 F.R.D. 383, 416 (C.D. Cal. Aug. 24, 2016). 28
20 U.S.C. § 1655 states that any defendant not notified
21 pursuant to the statute's requirements may enter his
22 appearance within one year after final judgment, and
23 the court will set aside the judgment.²

25 ¹ Plaintiff focuses on "fraud on the court," even naming his
26 Motion as such, and he is not seeking to file a new complaint.

27 ² Plaintiff is the one bringing the motion for fraud on the
28 court, not Defendants, and this Action is not a lien enforcement
action. Therefore, Rule 60(d)(2) is completely irrelevant to
Plaintiff's Motion.

1 Under Rule 60(d)(3), a court may set aside a
2 judgment based on "fraud on the court."³ "Fraud on the
3 court" is "fraud which does or attempts to, defile the
4 court itself, or is a fraud perpetrated by officers of
5 the court so that the judicial machinery cannot perform
6 in the usual manner." Alexander v. Robertson, 882 F.2d
7 421, 424 (9th Cir. 1989). It is necessary to show an
8 unconscionable plan or scheme which is designed to
9 improperly influence the court in its decision. Sierra
10 Pac. Indus., 862 F.3d at 1167 (citing Pumphrey v. K.W.
11 Thompson Tool Co., 62 F.3d 1128, 1131 (9th Cir. 1995)).

12 Generally, non-disclosure, or perjury by a party or
13 witness, does not alone amount to fraud on the court.
14 In re Levander, 180 F.2d 1114, 1119 (9th Cir. 1999).
15 Courts should narrowly read "fraud on the court" to
16 preserve final judgments. Latshaw v. Trainer Wortham &
17 Co., Inc., 452 F.3d 1097, 1104 (9th Cir. 2006).

18 **B. Discussion**

19 1. District Courts Lack Authority to Review 20 Appellate Decisions

21 In his Motion, Plaintiff, through Rule 60(d)(3),
22 asks this Court to reconsider the Ninth Circuit's
23 ruling on his Appeal. See Mot. 7, ECF No. 36.

25 ³ Rule 60(b)(3) allows a court to set aside a judgment for
26 "fraud . . . , misrepresentation, or misconduct." Rule 60(b)(3)
27 motions are subject to a one-year statute of limitations. Fed.
28 R. Civ. P. 60(c). Relief based on "fraud **on the court**" under
Rule 60(d)(3) is not subject to the one-year time limit set by
Rule 60(c). See United States v. Sierra Pac. Indus., Inc., 862
F.3d 1157, 1167 (9th Cir. 2017).

1 District Courts do not have authority to review
2 decisions issued by the Court of Appeals. See Briscoe
3 v. Jarvis, 77 F. Supp. 3d 183, 186-87 (D.D.C.
4 2015)(stating the court did not have authority to
5 review D.C. Circuit orders, regardless of the merit of
6 the claims); Colonna v. United States, No. 2:04-CV-1095
7 TS, 2006 WL 1699593, at *8 (D. Utah, June 13,
8 2006)(stating that the court did not have authority to
9 review the findings of the Tenth Circuit after the
10 petitioner argued the appellate decision was based on
11 the government's false and misleading statements).
12 Because this Court does not possess the ability to
13 review decisions from the Ninth Circuit, this Court
14 lacks jurisdiction to hear Plaintiff's Motion.
15 Plaintiff's Motion is therefore **DENIED**.

16 2. Plaintiff Has Failed to Provide Any Evidence of
17 Fraud on the Court

18 Even assuming Plaintiff correctly brought a motion
19 for fraud on the court under Rule 60(d)(3), he has
20 failed to provide sufficient evidence of such fraud.
21 In his Motion, Plaintiff alleges, "The Court's decision
22 was unfairly given due to illegal acts by the
23 Defendants providing The Court with 'misinformation
24'" Mot. 2. Plaintiff further alleges the
25 Defendants "committed 'Fraud upon The Court' by failing
26 to serve the United States 9[th] Circuit Court [of]
27 Appeals 'Court Summon'" on Plaintiff. Id. at 4.
28 Plaintiff's remaining allegations, while confusing,

1 assert claims for "false imprisonment," "kidnapping,"
2 "torture," and "fraud" to name a few.⁴

3 "In determining whether fraud constitutes fraud on
4 the court, the relevant inquiry is not whether
5 fraudulent conduct prejudiced the opposing party, but
6 whether it harmed the integrity of the judicial
7 process." United States v. Stonehill, 660 F.3d 415,
8 444 (9th Cir. 2011)(internal quotations omitted). In
9 addition, the relevant misrepresentations must go to
10 the central issue in the case and must be critical to
11 the outcome of the case. Id. at 452.

12 It is difficult to understand the "fraud on the
13 court" Plaintiff is alleging in his Motion. The only
14 alleged misconduct relevant to Plaintiff's 2003 civil
15 action appears to be that Defendants failed to serve
16 the Ninth Circuit "Court Summon[s]" on Plaintiff. Mot.
17 4. However, Plaintiff was the one who appealed this
18 Court's dismissal of his Complaint to the Ninth
19 Circuit. The Ninth Circuit dismissed his Appeal for
20 failure to pay the filing fee, and therefore,
21 Defendants were under no duty to serve a "Court
22 Summon[s]" on Plaintiff.

23 Further, "fraud on the court" under Rule 60(d)(3)
24 must be an "intentional, material misrepresentation."
25 Sierra Pac. Indus., Inc., 862 F.3d at 1168 (internal
26

27 ⁴ Plaintiff's Motion appears to focus on his required sex
28 offender registration with the State of California, which he
claims amounts to slavery. See Mot. 4-5.

1 citations omitted). Plaintiff has not alleged a single
2 misrepresentation Defendants made in this Action, much
3 less an "intentional" and "material" misrepresentation.
4 While Plaintiff refers to "misinformation" Defendants
5 provided the Court, Plaintiff does not identify this
6 alleged "misinformation." Importantly, Defendants were
7 at no point even involved in this Action; the Court
8 dismissed Plaintiff's Complaint for failure to serve
9 Defendants. See Order Dismissing Pl.'s Compl. 2:21-23.
10 Without any involvement in the Action, it is impossible
11 for Defendants to "misinform" the Court. Because
12 Plaintiff has failed to provide any evidence of, or
13 even allege, any "fraud on the court," the Court **DENIES**
14 Plaintiff's Motion.

15 **III. CONCLUSION**

16 Based on the foregoing, the Court **DENIES**
17 Plaintiff's Motion [36].

18
19 **IT IS SO ORDERED.**

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21 DATED: September 25, 2017 s/ RONALD S.W.LEW
22 HONORABLE RONALD S.W. LEW
23 Senior U.S. District Judge
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