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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BOBBY N. JACOBSON,

Plaintiff,

No. CIV S-08-1828 GGH PS

vs.

DEPARTMENT OF THE ARMY
BOARD FOR CORRECTION OF
MILITARY RECORDS,
Defendants.

ORDER¹

_____/

On March 15 and 30, 2011, plaintiff filed letters requesting that the court make certain rulings in this case, including requests to reopen and to set aside the judgment. This action was closed on September 30, 2009. This is not the first time plaintiff has sought reconsideration of the judgment entered in this case.

Even if plaintiff’s “motion to set aside judgment” is construed as a motion under Fed. R. Civ. P. 60(b), it has been made more than a year after judgment was entered. A motion on the grounds of “newly discovered evidence” or “fraud ..., misrepresentation, or misconduct by an opposing party” pursuant to Rule 60(b)(2), (3) can be made “within a reasonable time, and ... not more than one year after the judgment, order, or proceeding was entered or taken.” Fed. R.

¹The underlying case was a consent case pursuant to 28 U.S.C. § 636(c).

1 Civ. P. 60(b). Here, plaintiff claims that the Army obtained judgment against him based on false
2 testimony, or on concealed evidence. Such a basis for relief under Rule 60(b) must have been
3 brought within one year of September 30, 2009.

4 Plaintiff's motions to reopen (Docket # 28) and set aside the judgment (Docket
5 #29) are denied. Aside from any notice of appeal, the Clerk shall henceforth accept no more
6 filings in this case.

7 IT IS SO ORDERED.

8 DATED: June 21, 2011

9
10 /s/ Gregory G. Hollows

11

 UNITED STATES MAGISTRATE JUDGE

12 GGH:076/Jacobsen1828.58.mtns.wpd