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

DAVID WESLEY BIRRELL,
Aka BELLA-CHRISTINA BIRRELL,

Plaintiff,

v.

KEITH HARLAN KNAUF, et al.,

Defendants.

No. 2:10-CV-1707-GEB-CMK-P

ORDER

Plaintiff, a prisoner proceeding pro se, brought this civil rights action pursuant to 42 U.S.C. § 1983. Final judgment was entered on February 27, 2014, and plaintiff has appealed. Pending before the court is plaintiff's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b).

Under Rule 60(b), the court may grant reconsideration of a final judgment based on, among other things: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which, with reasonable diligence, could not have been discovered within ten days of entry of judgment; and (3) fraud, misrepresentations, or misconduct of an opposing party. A motion for reconsideration on any of these grounds must be brought within a reasonable time and no later than one year of entry of judgment. See Fed. R. Civ. P. 60(c)(1).

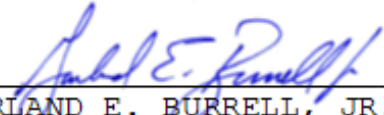
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In the pending motion, plaintiff is seeking relief under Rule 60(b)(3) “. . .based upon misrepresentation and misconduct by the opposing party in this action. . . .” Plaintiff cites various alleged discovery abuses committed by defense counsel. These contentions, however, were litigated during the course of discovery in this case, and again at the summary judgment phase, and the court does not find any basis for revisiting those issues.

Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for relief from judgment (Doc. 121) is denied.

Dated: December 19, 2014



GARLAND E. BURRELL, JR.
Senior United States District Judge