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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
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10 DANIEL ROGER HOOD,

11 Petitioner,

12 v.

13 DIRECTOR OF THE CALIFORNIA
14 DEPARTMENT OF CORRECTIONS
15 AND REHABILITATION,

16 Respondent.

15cv1564-CAB-DHB

**ORDER DENYING MOTION
PURSUANT TO RULE 60(b) [Doc.
No. 71]**

17 On September 26, 2019, Petitioner Daniel Roger Hood filed a Motion Pursuant to
18 Rule 60(b). [Doc. No. 71.] In the motion, Petitioner states that he is seeking relief
19 pursuant to Rule 60(b)(1)(2)(3). [Doc. No. 71 at 1.]

20 A. Legal Standard.

21 Rule 60 provides for extraordinary relief and may be invoked only upon a showing
22 of “exceptional circumstances.” *Engleson v. Burlington N.R. Co.*, 972 F.2d 1038, 1044
23 (9th Cir. 1994). The Rule identifies six permissible grounds for relief from a final
24 judgment, order, or proceeding, namely: “(1) mistake, inadvertence, surprise, or
25 excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could
26 not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud by
27 the adverse party; (4) the judgment is void; (5) the judgment has been satisfied; (6) and
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1 other reason justifying relief.” Fed. R. Civ. P. 60(b). Further, the Rule provides that a
2 motion brought under it “must be made within a reasonable time – and for reasons (1),
3 (2), and (3) no more than a year after the entry of judgment or order of the date of the
4 proceeding.” Fed. R. Civ. P. 60(c).

5 B. Discussion.

6 Here, the petition was denied, and judgment was entered accordingly, on February
7 13, 2017. [Doc. Nos. 52 and 53.] This motion -- seeking relief under Rule 60(b)(1), (2),
8 and (3) – was filed two and a half years later. Therefore, pursuant to Rule 60(c), the
9 motion is untimely.

10 C. Conclusion.

11 For the reason set forth above, the motion pursuant to Rule 60(b) is DENIED.

12 IT IS SO ORDERED.

13 Dated: October 4, 2019



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15 Hon. Cathy Ann Bencivengo
16 United States District Judge
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