

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 07-21256-CIV-JORDAN

JOHN B. THOMPSON,)
)
 Plaintiff,)
)
 vs.)
)
 THE FLORIDA BAR, et al.,)
)
 Defendants.)
)
 _____)

ORDER DENYING MOTION TO VACATE AND FOR STAY

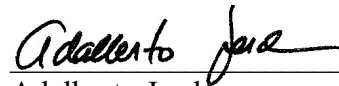
Mr. Thompson’s latest motion to vacate for fraud on the court and for a stay of the ongoing disciplinary proceedings [D.E. 362], as supplemented [D.E. 369, 370, 371], and treated as a motion under Rule 60(b), is DENIED.

Fraud on the court “embrace[s] only that species of fraud which does or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication.” *See Zakrzewski v. McDonough*, 490 F.3d 1264, 1267 (11th Cir. 2007) (*citing Travelers Indem. Co. v. Gore*, 761 F.2d 1549, 1551 (11th Cir. 1985)). In determining whether relief for fraud on the court is appropriate here, I need to consider to what extent the alleged fraud influenced the order of dismissal that Mr. Thompson seeks to vacate. *See id.*

Mr. Thompson asserts that the Florida Bar perpetrated a fraud upon the court because it falsely claimed that it was not the original complainant in any disciplinary cases against Mr. Thompson. Mr. Thompson says that he now has evidence (i.e., the letters attached as exhibits to his motion) showing that the Florida Bar was in fact the original complainant in the matter involving Judge Friedman. The problem with Mr. Thompson’s argument is that it is legally insufficient to warrant vacatur for fraud upon the court under Rule 60(b). First, I accepted Mr. Thompson’s allegations that the Florida Bar had in fact filed disciplinary complaints against him with respect to the Judge Moore/Blank Rome matters in Alabama. *See Order of Dismissal* [D.E. 347] at 3. Thus, abstention was appropriate even though the Florida Bar was the original complainant in some disciplinary cases against Mr. Thompson. Abstention, moreover, would have been appropriate even if I had known that the Florida Bar was the original complainant in the matter involving Judge Friedman. Second, the reason I did not assume that the disciplinary complaint in the Judge Friedman matter had been filed by the Florida Bar itself was because Mr. Thompson alleged that

Judge Friedman had filed the complaint. In fact, Mr. Thompson used that allegation to claim bad faith, as he argued that the Florida Bar allegedly had not required Judge Friedman to file the complaint under oath. So at least one of Mr. Thompson's allegations of bad faith, which I accepted as true in the dismissal order, was not accurate. Had I known that the Florida Bar itself had filed the complaint against Mr. Thompson in the Judge Friedman matter, Mr. Thompson's bad faith argument would have been even weaker.

DONE and ORDERED in chambers in Miami, Florida, this 10th day of December, 2007.



Adalberto Jordan
United States District Judge

Copy to: All counsel of record