

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

Mr. Thompson’s latest motions to vacate for fraud on the court [D.E. 381-83] are DENIED.

Mr. Thompson contends that Judge Tunis is a “beneficiary of forgery” because she allegedly had another person forge her name in her first oath of loyalty and did not comply with Fla. Stat. §876.05. These allegations do not establish fraud on the court. In the order of dismissal, I relied on Mr. Thompson’s own sworn allegations indicating that Judge Tunis was “a Circuit Court Judge in the Eleventh Judicial Circuit of Florida (Miami-Dade County), appointed to the bench by Governor Jeb Bush.” *See* Compl. [89] at ¶ 3. I did not rely on any representation of the defendants as to Judge Tunis’ oath of office. Mr. Thompson’s failure to prove detrimental reliance is once again fatal to his claim for fraud on the court. *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)).

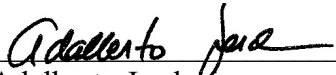
Mr. Thompson claims that certain deficiencies in Judge Tunis’ oath of office are evidence of the Bar’s bad faith. This argument fails because Judge Tunis was not appointed as a referee in this case by the Bar. Instead, as Mr. Thompson stated under oath in his verified complaint, Judge Tunis was appointed by Chief Judge Joseph Farina. Judge Farina’s decision to appoint Judge Tunis cannot be imputed to the Bar to establish bad faith. Further, I cannot consider this to be “new evidence” at this point because Mr. Thompson has not demonstrated that he was not able to obtain this information through due diligence in time to move for reconsideration of the order of dismissal. *See* Fed.R.Civ.P. 60(b)(2).

Mr. Thompson also argues that the recent federal indictment of Ben Kuehne shows that the Bar acted in bad faith when it refused to remove Mr. Kuehne from Mr. Thompson’s investigation. Despite the recent developments, this is hardly a new argument. Indeed, Mr. Thompson alleged in

his verified complaint -- and had argued in the action before Judge Huck -- that the Bar should have removed Mr. Kuehne because of the then ongoing money laundering investigation against him. I concluded in the order of dismissal, like Judge Huck had concluded in the earlier lawsuit, that these allegations were not sufficient to establish bad faith. *See* Order of Dismissal [D.E. 347] at 6 n.6, 13, 19. Mr. Kuehne's recent indictment does not change my ruling.

In sum, Mr. Thompson's allegations fail again to establish fraud on the court or any other basis to vacate the order of dismissal. Accordingly, his latest motions to vacate are denied.

DONE and ORDERED in chambers in Miami, Florida, this 12th day of February, 2008.



Adalberto Jordan
United States District Judge

Copy to: All counsel of record