

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 RULE 60 MOTION**

Mr. Thompson's latest Rule 60 motion [D.E. 438] is DENIED.

Mr. Thompson has moved for relief from the order dismissing this case under Rule 60(d)(3), claiming fraud on the court, and under Rule 60(b)(6), the catch-all provision, on the theory that the Bar defrauded the court by claiming that Judge Tunis was a fair Bar referee. Mr. Thompson's only basis for claiming the Bar's statement was a fraud on the court is that the Bar's policy is to choose its referees in alphabetical order and that, according to Mr. Thompson, Judge Tunis was not chosen based on her position in the alphabetic order of referees.

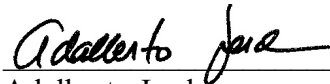
Whether to grant relief under Rule 60 is a matter for the court's discretion. *See Toole v. Baxter Healthcare Corp.*, 235 F.3d 1307, 1316 (11th Cir. 2000); *Prather v. Pickens County, Ga.*, No. 05-32, 2006 WL 3333717, \*1 (N.D. Ga. 2006). Rule 60(d)(3) motions must "be reserved for those cases of injustices which, in certain instances, are deemed sufficiently gross to demand a departure from rigid adherence to the doctrine of *res judicata*." *See Day v. Benton*, 346 Fed.Appx. 476, 478 (11th Cir. 2009) (internal quotations omitted). Similarly, Rule 60(b)(6) motions should only disturb the finality of judgment in extraordinary circumstances. *See Toole*, 235 F.3d at 1316 ("a Rule 60(b)(6) motion . . . is intended only for extraordinary circumstances.") (internal quotations omitted).

Under the facts presented in Mr. Thompson's motion, this situation is neither sufficiently grossly unjust nor sufficiently extraordinary to warrant Rule 60 relief. First, Mr. Thompson provides no evidence that Judge Tunis was not chosen based on the alphabetic order of the referees. He merely provides his own conclusory statements that she was not, and says that he can prove his

allegations. Second, even if Judge Tunis was not chosen based on the alphabetic order of her name, that information alone would not make the Bar's statement that she was impartial fraudulent, or suggest that the method by which she was chosen was so outrageous that omission of this information from the original record is an extraordinary circumstance.

Accordingly, Mr. Thompson's Rule 60 motion [D.E. 438] is DENIED.

DONE and ORDERED in chambers in Miami, Florida, this 7<sup>th</sup> day of September, 2009.



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Adalberto Jordan  
United States District Judge

cc: All counsel of record  
John B. Thompson, pro se  
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