

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

FREDERICK LEE IRONS,)	
)	
Petitioner/Defendant,)	
)	CIVIL NO. 02-cv-274-DRH
vs.)	CRIMINAL NO. 99-cr-30023
)	
UNITED STATES of AMERICA ,)	
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

HERNDON, Chief Judge:

This matter is before the Court on Petitioner’s “motion pursuant to a defect in the § 2255 proceedings” (Doc. 55). Petitioner states that he brings this motion pursuant to Rule 60(b)(6) of the Federal Rules of Civil Procedure. In his motion, Petitioner asserts that this Court wrongfully concluded that a supplement to his § 2255 motion asserted claims that were time barred. Petitioner contends that the claims raised in the supplement related back to his original § 2255 and, therefore, were not time barred.

This Court summarily dismissed Petitioner’s § 2255 action on March 29, 2004. *See* (Docs. 21 and 22). With regard to Petitioner’s supplement, this Court concluded that the claims asserted in it did not relate back to the date of the filing the original § 2255 motion and, therefore, were time barred. *See* (Doc. 21) Alternatively, the Court found that even if the claims were *not* time barred, they had no merit. *Id.* Petitioner attempted to appeal the dismissal of his § 2255 action, but was denied a certificate of appealability by both this Court and by the Seventh Circuit Court of Appeals.

A motion pursuant to Rule 60(b) “shall be made within a reasonable time, and... not more

than one year after the judgment... was entered. ” Furthermore, a court may not extend the time for taking any action under Rule 60(b).” FED.R.CIV.P. 6(b); *see also Varhol v. National Railroad Passenger Corp.*, 909 F.2d 1557 (7th Cir. 1990); *Nugent v. Yellow Cab Co.*, 295 F.2d 794 (7th Cir.), *cert. denied*, 368 U.S. 828 (1961). In the case at hand, Judgment was entered on March 29, 2004. The instant motion, however, was not filed until January 29, 2009 - four years and ten months after the Judgment was entered. Accordingly, the instant motion is **DENIED**.

IT IS SO ORDERED.

DATED: February 4, 2009.

/s/ David R. Herndon

DISTRICT JUDGE