IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

CLEOPHUS D. JAMES,)
Movant,))
v.)
UNITED STATES OF AMERICA,)
Respondent.)

No. 4:14-cv-00572-NKL

ORDER

Movant Cleophus D. James for the second time requests relief from judgment under Fed. Rule Civ. P. 60(b). [Doc. 26.] The motion is denied.

James filed this case under 28 U.S.C. § 2255, requesting an order vacating, setting aside, or correcting his sentence. The Court dismissed the case, with prejudice [Doc. 8]; denied James' Rule 59(e) motion for reconsideration [Doc. 17]; and denied James' Rule 60(b) motion in which he reasserted arguments the Court had already rejected, [Doc. 24]. James now argues that Respondent United States of America failed to respond to his original Rule 60(b) motion and, as a result, the "material facts alleged by" James therein "are admitted by the United States and any contrary position or objection is...deemed waived." [Doc. 26, p. 1]. James also "resubmits" the facts and arguments stated by him therein. [*Id.*]

As the Court explained in denying James' original Rule 60(b) motion, the rule "authorizes relief in only the most exceptional cases." *White v. Nat'l Football League*, 756 F.3d 585, 596 (8th Cir. 2014) (quotation and citations omitted). James' case presents

no exceptional circumstances. Further, the United States in fact did file suggestions in opposition to his motion [Doc. 23].

Accordingly, James' second Rule 60(b) motion [Doc. 26] is denied.

<u>s/ Nanette K. Laughrey</u> NANETTE K. LAUGHREY United States District Judge

Dated: <u>March 9, 2015</u> Jefferson City, Missouri