

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OTIS A. DANIEL,

Plaintiff,

-v-

T&M PROTECTION RESOURCES LLC, et al.,

Defendants.

13 Civ. 4384 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has received *pro se* plaintiff Otis Daniel's motion for relief under Federal Rule of Civil Procedure 60(b), dated June 18, 2020. Dkt. 211. Daniel moves for relief because he argues that the record shows that defendants knowingly misrepresented facts and committed fraud, he has no other remedy, and he did not create the circumstances for which he seeks relief. *See id.* at 2.

Rule 60(b) allows a party to move for relief from a final judgment under certain circumstances. *See* Fed. R. Civ. P. 60. The Court construes this motion as asking for relief under Rule 60(b)(3) and Rule 60(b)(6). Neither warrants relief here.

Federal Rule of Civil Procedure 60(b)(3) allows a party to move for relief from a final judgment if fraud was committed by the opposing party. Fed. R. Civ. P. (b)(3). Such a motion must be made within one year of the entry of the judgment. *Id.* (c)(1). The Court is deeply familiar with this matter, having resolved a summary judgment motion and presided over a bench trial, but finds no record evidence of fraud justifying relief. Further, Daniel's motion is untimely, coming almost two years after the judgments in this case, which were entered on July

12, 2018, Dkt. 178, and July 20, 2018, Dkt. 186. The Court therefore denies Otis's motion under Rule 60(b)(3).

Rule 60(b)(6) also allows a party to move for relief for "any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6). Such a motion must be made "within a reasonable time." *Id.* (c)(1). The Court again finds no reason justifying relief. Daniel also has failed to make his motion within a reasonable time, as he filed it almost two years after the judgments were entered in July 2018 and almost one year after the Second Circuit affirmed the judgment on July 2, 2019, *see* Dkt. 208. Therefore, no relief is warranted under Rule 60(b)(6).

The Clerk of Court is respectfully directed to mail a copy of this order to Daniel. For avoidance of doubt, this case remains closed.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: June 22, 2020
New York, New York