

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

JOHNNY JOHNSON,)
)
 Plaintiff,)
)
 vs.) No. 03-2432-V
)
 MEMPHIS CITY SCHOOLS,)
)
 Defendant.)

ORDER DENYING PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT

This case arises out of Johnny Johnson's claim that Memphis City Schools ("MCS") retaliated against him in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (2003). On December 2, 2004, this court granted MCS's motion for summary judgment because Johnson did not identify any genuine issue of material fact with respect to whether he was denied a position with MCS in retaliation for a lawsuit he filed against MCS ten years before.

Presently before the court is the December 8, 2004 motion of Johnson, pursuant to Rule 60(b)(1) and (2) of the Federal Rules of Civil Procedure, for relief from judgment on grounds of mistake, inadvertence, surprise, excusable neglect, and newly discovered evidence from the order entered by the court on December 2, 2004 granting MCS's summary judgment and dismissing this case. For the

reasons that follow, Johnson's motion is denied.

Rule 60(b)(1) permits a party to seek relief from a court order for "mistake, inadvertence, surprise, or excusable neglect." FED. R. CIV. P. 60(b)(1). Rule 60(b)(2) permits relief for newly discovered evidence. Whether to grant relief is within the discretion of the court.

Johnson has not presented any ground that would entitle him to relief. The court finds that Johnson's arguments in his Rule 60 motion are merely duplicative of his earlier arguments and therefore insufficient to warrant relief from the prior ruling. In reaching its decision to grant the defendant's motion for summary judgment, the court considered the very arguments and issues now raised again by Johnson. Accordingly, Johnson's motion for relief from judgment is denied.

IT IS SO ORDERED this 15th day of December, 2004.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE