

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-2011

Arthur D'Amario, III,

Appellant,

v.

Bureau of Prisons, Sued as U.S.
Bureau of Prisons,

Appellee.

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* Appeal from the United States
* District Court for the
* District of Minnesota.
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* **[UNPUBLISHED]**

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Submitted: February 7, 2003
Filed: February 10, 2003

Before BOWMAN, WOLLMAN, and LOKEN, Circuit Judges.

PER CURIAM.

Arthur D'Amario appeals the district court's¹ order denying his Federal Rule of Civil Procedure 60(b) motion. D'Amario sought relief from the district court's underlying judgment, which he did not timely appeal, denying his third 28 U.S.C. § 2241 petition as abusive, and denying his motion for sanctions against the government attorney. In support of Rule 60(b) relief, D'Amario argued he had been unable to obtain a transcript that he needed to support his petition until after judgment

¹The HONORABLE ANN D. MONTGOMERY, United States District Judge for the District of Minnesota.

was entered. However, we agree with the district court that the transcript would have made no difference in the disposition of D'Amario's claims and therefore was not newly discovered evidence that warranted Rule 60(b) relief.

We therefore find no abuse of discretion in the denial of Rule 60(b) relief. See Sanders v. Clemco Indus., 862 F.2d 161, 169 (8th Cir. 1988). Accordingly, we affirm. See 8th Cir. R. 47B. We deny as moot D'Amario's motion for summary disposition.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.