

AUG 22 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>STEPHEN DARRYL PEFLY, Plaintiff - Appellant, v. MICHAEL F. GOWER; et al., Defendants - Appellees.</p>
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No. 13-35361

D.C. No. 3:10-cv-01103-BR

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Anna J. Brown, District Judge, Presiding

Submitted August 13, 2014**

Before: SCHROEDER, THOMAS, and HURWITZ, Circuit Judges.

Former Oregon state prisoner Stephen Darryl Pefley appeals pro se from the district court’s orders denying his post-judgment motions for reconsideration in his 42 U.S.C. § 1983 action alleging constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Sch. Dist. No. 1J*,

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Multnomah Cnty., Or. v. ACandS, Inc., 5 F.3d 1255, 1262-63 (9th Cir. 1993). We affirm.

The district court did not abuse its discretion when it denied Pefley's motions for relief under Federal Rules of Civil Procedure 59(e) and 60(b) because Pefley failed to establish any basis for relief. *See Sch. Dist. No. 1J*, 5 F.3d at 1263 (setting forth grounds for reconsideration under Fed. R. Civ. P. 59(e) and 60(b)).

We lack jurisdiction to consider the underlying merits because Pefley failed to file a timely notice of appeal from district court's entry of judgment. *See Fed. R. App. P. 4(a)(1)*.

We do not consider arguments and allegations raised for the first time on appeal, including Pefley's contentions regarding the prison mail system, his custody status, his military service, or his health problems and nutrition. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

AFFIRMED.