

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 16 2015

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LONNIE CHARLES BROWN,

Plaintiff - Appellant,

v.

MATTHEW CATE, Director; et al.,

Defendants - Appellees.

No. 14-16971

D.C. No. 1:13-cv-00077-GSA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Gary S. Austin, Magistrate Judge, Presiding**

Submitted December 9, 2015***

Before: WALLACE, RAWLINSON, and IKUTA, Circuit Judges.

Lonnie Charles Brown, a California state prisoner, appeals pro se from the

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

** Brown consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

district court's orders denying his July 14, 2014 and August 14, 2014 motions for reconsideration in his 42 U.S.C. § 1983 action alleging that prison staff used a security device to sexually assault him. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion, *Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993), and we affirm.

The district court did not abuse its discretion by denying Brown's July 14, 2014 and August 14, 2014 motions for reconsideration because Brown failed to demonstrate grounds warranting such relief. *See id.* at 1263 (setting forth grounds for reconsideration under the Federal Rules of Civil Procedure); *Latshaw v. Trainer Wortham & Co., Inc.*, 452 F.3d 1097, 1103 (9th Cir. 2006) (explaining that Fed. R. Civ. P. 60(b)(6) relief is granted "only where extraordinary circumstances" are present and the party must "demonstrate both injury and circumstances beyond his control that prevented him from proceeding with . . . the action in a proper fashion" (citation and internal quotation marks omitted, ellipsis in original)).

We lack jurisdiction to address Brown's challenges to the district court's orders denying his motion to appoint counsel and dismissing his complaint, because Brown failed to file a timely notice of appeal of the underlying judgment. *See* Fed. R. App. P. 4(a)(1)(A) (notice of appeal must be filed within 30 days of final judgment); Fed. R. App. P. 4(a)(4)(A) (the time to file an appeal runs from

the entry of the order disposing of a post-judgment tolling motion).

We reject Brown's contention that he was prejudiced by the U.S. District Court for the Eastern District of California, Fresno.

Brown's motion for relief, filed on October 27, 2015, is denied because he provides no legal basis for the requested relief.

AFFIRMED.