

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 20 2021

FOR THE NINTH CIRCUIT

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

LANCE REBERGER,

Plaintiff-Appellant,

v.

MICHAEL KOEHN, ESP General
Practitioner; et al.,

Defendants-Appellees.

No. 19-16143

D.C. No. 3:15-cv-00551-MMD-
CBC

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, District Judge, Presiding

Submitted August 17, 2021**

Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.

Nevada state prisoner Lance Reberger appeals pro se from the district court's denial of his post-judgment motion for reconsideration in his 42 U.S.C. § 1983 action alleging deliberate indifference and retaliation. 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 Ninth Circuit Rule 36-3.

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

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

The district court did not abuse its discretion in denying Reberger's motion for reconsideration because Reberger failed to establish any basis for such relief. *See id.* at 1262-63 (grounds for reconsideration under Federal Rules of Civil Procedure 59 and 60(b)).

We do not consider Reberger's contentions regarding the district court's grant of summary judgment because Reberger failed to file a timely notice of appeal or a timely post-judgment tolling motion. *See* Fed. R. App. P. 4(a)(1)(A) (a notice of appeal must be filed within 30 days of judgment); *Fiestler v. Turner*, 783 F.2d 1474, 1475 (9th Cir. 1986) (under Rule 4(a)(4), an untimely post-judgment motion does not toll the time to appeal from the judgment).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Reberger's request for judicial notice, set forth in the reply brief, is denied.

AFFIRMED.