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## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

SANTOS RENE FLORES.

Plaintiff,

٧.

S. FLORES, et al.,

**Defendants** 

Case No. 1:14-cv-00577-MJS (PC)

ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT FOR LACK OF JURISDICTION

(ECF No. 41)

Plaintiff is a state prisoner proceeding pro se and in forma pauperis ("IFP") in this civil rights action brought pursuant to 42 U.S.C. § 1983. The parties have consented to Magistrate Judge jurisdiction for all purposes. (ECF Nos. 7 & 17.) .) Now pending before the Court is Plaintiff's September 16, 2016 Motion Under Fed. Rule Civil Procedure Rule 60(b), construed as a motion for relief from a judgment or order pursuant to Federal Rule of Civil Procedure 60(b). (ECF No. 41.)

Plaintiff's case was dismissed on January 20, 2015, and judgment was entered that day. (ECF Nos. 25 & 26.) Plaintiff appealed. (ECF Nos. 35 & 36.) On January 19, 2016, this Court issued an order revoking Plaintiff's IFP status on appeal and certifying the appeal as frivolous. (ECF No. 39.) On April 6, 2016, the Ninth Circuit confirmed the District Court's certification and directed Plaintiff to pay the filing fee within 21 days. (Order, Flores v. Flores, No. 16-15029 (9th Cir. Apr. 6, 2016), ECF No. 7.) On

September 2, 2016, Plaintiff's appeal was dismissed after Plaintiff failed to pay the filing fee. (Order, Flores v. Flores, No. 16-15029 (9th Cir. Sept. 2, 2016), ECF No. 17.)

Plaintiff filed his motion for relief from judgment after he appealed to the Ninth Circuit and received a final determination on the merits. This Court no longer has jurisdiction over his case. See Griggs v. Provident Consumer Discount, 459 U.S. 56, 58 (1982) (Generally, "[t]he the filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.") To the extent Plaintiff disagrees with the Ninth Circuit's determination, his remedy would be to appeal the Ninth Circuit's decision.

In light of the foregoing, Plaintiff's motion for relief from judgment is DENIED for lack of jurisdiction.

IT IS SO ORDERED.

Dated: February 1, 2017

UNITED STATES MAGISTRATE JUDGE