

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHRISTOPHER LIPSEY, JR.,
Plaintiff,
v.
DR. REDDY, et al.,
Defendants.

Case No. 1:17-cv-00569-LJO-BAM (PC)
ORDER DENYING PLAINTIFF’S MOTION
PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 60(b) AND REQUEST FOR
CIVIL PENALTIES AND/OR EXEMPLARY
DAMAGES
(ECF No. 83)

Plaintiff Christopher Lipsey, Jr. filed the instant 42 U.S.C. § 1983 action on April 24, 2017. (ECF No. 1.) On March 6, 2019, the undersigned issued an order adopting the Magistrate Judge’s Findings and Recommendations in full, granting Defendants Hernandez’s, Celedon’s, and Mancilla’s motion for summary judgment for failure to exhaust administrative remedies, and entering judgment in favor of all Defendants. (ECF Nos. 74, 75.) On April 1, 2019, Plaintiff filed a notice of appeal of the Court’s March 6, 2019 order. (ECF No. 80.)

Currently before the Court is Plaintiff’s motion pursuant to Federal Rule of Civil Procedure 60(b)(2)-(3) and request for civil penalties and/or exemplary damages, filed on June 7, 2019. (ECF No. 83.)

However, since Plaintiff’s Rule 60(b) motion was filed after the notice of appeal was filed, this Court lacks jurisdiction to entertain Plaintiff’s Rule 60(b) motion. Williams v. Woodford, 384 F.3d 567, 586 (9th Cir. 2002); see also Estrada v. Clines, 559 F. App’x 652, 652-53 (9th Cir. 2014).

1 Accordingly, Plaintiff's motion pursuant to Rule 60(b) and request for civil penalties and/or
2 exemplary damages, (ECF No. 83), is HEREBY DENIED for lack of jurisdiction.

3
4 IT IS SO ORDERED.

5 Dated: June 12, 2019

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28