

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**

BARRY LEE BROOKINS,)	Case No. 1:17-cv-01675-AWI-SAB (PC)
)	
Plaintiff,)	
)	ORDER DENYING PLAINTIFF’S MOTION TO
v.)	WITHDRAW NOTICE OF APPEAL AS MOOT
)	
M. HERNANDEZ, et al.,)	(ECF No. 112)
)	
Defendants.)	
)	
)	

Plaintiff Barry Lee Brookins is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On September 11, 2020, District Judge Anthony W. Ishii denied Plaintiff’s motion for reconsideration of the Court’s December 16, 2019 order adopting the Findings and Recommendations and granting Defendants’ exhaustion summary judgment motion. (ECF No. 105.)

On September 28, 2020, Plaintiff filed a notice of appeal of the Court’s September 11, 2020 order, and the appeal was processed to the Ninth Circuit Court of Appeals, Case No. 20-16886. (ECF Nos. 108, 109.)

On October 13, 2020, Plaintiff filed a notice to withdraw his appeal. (ECF No. 112.) Plaintiff submits that the appeal was sent by accident and is premature. (Id.)

///
///

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

On October 16, 2020, the Ninth Circuit Court of Appeals dismissed Plaintiff's appeal for lack of jurisdiction. (ECF No. 113.) Accordingly, Plaintiff's motion to withdraw his appeal is denied as rendered moot.

IT IS SO ORDERED.

Dated: October 16, 2020


UNITED STATES MAGISTRATE JUDGE