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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

VANCE STRONG,

Plaintiff,

No. 2:09-cv-0815 FCD JFM PS

vs.

M.A. TOLMAN, #13543, et al.,

ORDER

Defendants.

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Plaintiff is proceeding in this action pro se. On July 14, 2009, judgment was entered and this action was closed. On July 22, 2009, plaintiff filed a notice of appeal, which is presently pending before the Court of Appeals for the Ninth Circuit. On August 4, 2009, plaintiff filed a document entitled "Motion and or Petition for Re-hearing." The general rule in the Ninth Circuit is that "[t]he filing of a notice of appeal generally divests the district court of jurisdiction over the matters appealed." Bermudez v. Duenas, 936 F.2d 1064, 1068 (9th Cir. 1991), citing Davis v. United States, 667 F.2d 822, 824 (9th Cir. 1982). Because it appears plaintiff is seeking rehearing of the merits of his complaint, which is the issue on appeal, this court does not have jurisdiction to hearing plaintiff's August 4, 2009 motion.

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