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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 TUANJA EDWARD ANDERSON,

12 Plaintiff,

13 v.

14 M. VOONG, et al.,

15 Defendants.
16

No. 2: 16-cv-2948 KJN P

ORDER

17 Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant
18 to 42 U.S.C. § 1983. On March 16, 2017, this action was dismissed and judgment was entered.
19 (ECF Nos. 8, 9.) On March 27, 2017, plaintiff filed a notice of appeal, which is now pending
20 before the Ninth Circuit Court of Appeals. (ECF No. 10.)

21 On July 5, 2017, plaintiff filed a motion for reconsideration of the March 16, 2017 order
22 dismissing his case. (ECF No. 15.) The undersigned construes plaintiff's motion as a request for
23 relief from judgment pursuant to Federal Rule of Civil Procedure 60(b).

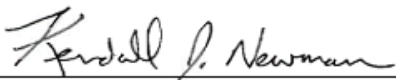
24 Generally "[t]he filing of a notice of appeal is an event of jurisdictional significance—it
25 confers jurisdiction on the court of appeals and divests the district court of its control over those
26 aspects of the case involved in the appeal." Griggs v. Provident Consumer Discount Co., 459
27 U.S. 56, 58 (1982) (per curiam). However, "[u]nder Appellate Procedure Rule 4(a), a Rule 60(b)
28 motion is 'pending' and suspends the effect of a notice of appeal when the motion is filed 'no

1 later than 28 days after the judgment is entered.’ Fed. R. App. Proc. 4(a)(4)(A)(vi).” Lasenbby v.
2 State Farm Fire & Cas. Co., 2015 WL 3505320, at *1 n.5 (D. Nev. June 2, 2015) (citing United
3 Nat’l Ins. v. R & D Latex Corp., 242 F.3d 1102, 1109 (9th Cir. 2001) (notice of appeal did not
4 divest district court of jurisdiction because motion for reconsideration was pending).)

5 Plaintiff’s motion for relief from judgment was filed more than 28 days after the judgment
6 was entered. Accordingly, this court does not have jurisdiction to consider this motion.

7 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for reconsideration (ECF
8 No. 15), construed as a motion for relief from judgment pursuant to Federal Rule of Civil
9 Procedure 60(b), is disregarded for lack of jurisdiction.

10 Dated: August 24, 2017

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13 KENDALL J. NEWMAN
14 UNITED STATES MAGISTRATE JUDGE

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