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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL J. HICKS,

Plaintiff,

v.

M. S. EVANS, warden,

Defendant.

No. C 08-1146 SI (pr)

**ORDER (1) DENYING MOTION TO
STAY JUDGMENT,
(2) CONSTRUING DOCUMENT TO BE A
NOTICE OF APPEAL, AND
(3) NOTING PAUPER ISSUE**


Plaintiff's motion to stay the judgment in this action is DENIED. (Docket # 118.) Plaintiff wants the judgment stayed so that he may obtain a hearing transcript from a state court (and presumably file a motion for reconsideration), but fails to explain what is in that transcript that would make any difference in this action. The result of that hearing was not unknown to this court; the minute order from the state court that followed the hearing was quoted in this court's dispositive order. *See* Docket # 116, p. 3:25-27. Plaintiff's other complaint about this court's dispositive order – that the court "missed the Trexler admission," Docket # 118, p. 2 – is simply wrong. *See* Docket # 116, p. 5:5-6.

Plaintiff requests that his motion be construed to be a notice of appeal if the motion to stay the judgment is denied. Docket # 118, p. 3. Having denied the motion to stay the judgment, the court construes Docket # 118 to be a notice of appeal. The clerk shall process the appeal.

1 Finally, the court notes that pauper status for this plaintiff was denied pursuant to 28
2 U.S.C. § 1915(g) in *Hicks v. Conover*, No. C 11-6363 SI (pr) on November 6, 2012. That
3 determination may affect plaintiff's ability to proceed *in forma pauperis* on appeal in this action,
4 although that appears to be a matter for the Ninth Circuit to decide.

5 IT IS SO ORDERED.

6 Dated: November 26, 2012



SUSAN ILLSTON
United States District Judge

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