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

TATYANA EVGENIEVNA DREVALEVA,

Plaintiff,

No. C 18-03748 WHA

v.

UNITED STATES DEPARTMENT OF
 VETERANS AFFAIRS, and ROBERT
 WILKIE, Secretary, United States Department
 of Veterans Affairs,

**ORDER DENYING
 MOTION TO VACATE**

Defendants.

In June 2018, *pro se* plaintiff Tatyana Drevaleva filed suit against defendants United States Department of Veterans Affairs and United States Secretary of Veterans Affairs, Robert Wilkie. On July 11, 2019, a prior order granted defendants' motion to dismiss and final judgment was entered for defendants (Dkt. Nos. 154–155). On July 13, 2019, plaintiff appealed the judgment and filed a timely notice of appeal (Dkt. No. 157). The next day, plaintiff moved to vacate the judgment pursuant to Rule 60 (Dkt. No. 158). Plaintiff has filed four supplemental briefs to date, two of which were filed after plaintiff filed her reply (Dkt. Nos. 163–164, 168–169).

Rule 60(b) sets forth the grounds for relief from a final judgment, including, in relevant part:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not

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have been discovered in time to move for a new trial under Rule 59(b); or (3) fraud (whether previously called intrinsic or extrinsic), representation, or misconduct by an opposing party.

Considering that plaintiff’s motion and subsequent briefs only introduce new legal theories and do not introduce any instances of mistake, newly discovered evidence, or misconduct, the motion does not warrant reopening the case at this late stage.


Furthermore, it is generally understood that “[t]he filing of a notice of appeal . . . confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *E.g., Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982). Plaintiff’s civil action was dismissed, judgment entered, and the case closed.

This order of events neatly conferred jurisdiction on our court of appeals. The district court lacks jurisdiction to reopen the case.

For the reasons stated herein, the motion to vacate the judgment is **DENIED**. Pursuant to Civil Local Rule 7-1(b), this order finds the pending motions suitable for submission without oral argument and hereby **VACATES** the hearing scheduled for August 22. Plaintiff is further advised that filing supplementary material after the operative brief has been filed is a violation of Civil Local Rule 7-3(d) and will not be permitted.

IT IS SO ORDERED.

Dated: August 5, 2019.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE