

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  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

LAL BHATIA,  
  
Plaintiff,  
  
vs.  
  
UNITED STATES OF AMERICA, JANET  
BERRY, STEPHEN G. CORRIGAN, DOES 1-  
50,  
  
Defendants.

Case No: C 08-4208 SBA  
  
Related Case: CR 05-0334 SBA  
  
**ORDER DENYING MOTIONS FOR  
RECONSIDERATION**  
  
Docket 32, 36

Plaintiff Lal Bhatia (“Bhatia”) filed the instant action seeking to enjoin the Government from prosecuting him in a criminal action currently pending before this Court. See United States v. Bhatia, et al., CR 05-334 SBA.<sup>1</sup> He alleged that Assistant United States Attorney Stephen Corrigan (“AUSA Corrigan”) and FBI Agent Janet Berry, both of whom are assigned to the criminal action, engaged in “unlawful” and “bad faith” conduct in the course of pursuing criminal charges against him. On November 6, 2008, the Court dismissed the action for lack of subject matter jurisdiction. The Ninth Circuit Court of Appeal affirmed the dismissal on April 20, 2010.

Two motions are now before the Court. First, on April 7, 2010, Bhatia filed a “Motion Pursuant to Civil Local Rule 7-9(b)(3) for the Court’s Manifest Failure to Consider the Unrefuted Material Facts and Dispositive Legal Arguments Establishing the Basis to Order AUSA Corrigan to Correct the Material Falsehoods Prior to Proceeding with CR-05-3334-SBA. (Docket 32.) In short, Bhatia seeks reconsideration of the Court’s prior dismissal ruling

---

<sup>1</sup> Bhatia was convicted in a separate criminal action of fraud and money laundering in a case before Judge Claudia Wilken, and currently is in the custody of the Bureau of Prison on that conviction. See United States v. Bhatia, CR 04-40071 CW.

1 and demands that the Court order AUSA Corrigan to “correct the material falsehoods” before  
2 proceeding further with the criminal proceeding. (Mot. at 1.) However, because Bhatia filed  
3 his motion after filing a notice of appeal, the Court lacks jurisdiction to consider it. See Griggs  
4 v. Provident Consumer Discount Co., 459 U.S. 56, 58-59 (1982) (“The filing of a notice of  
5 appeal is an event of jurisdictional significance-it confers jurisdiction on the court of appeals  
6 and divests the district court of its control over those aspects of the case involved in the  
7 appeal”) (per curiam); Katzir’s Floor and Home Design, Inc. v. M-MLS.com, 394 F.3d 1143,  
8 1147 (9th Cir. 2004) (“The district court lacked jurisdiction to entertain the Rule 60(b) motion,  
9 which was filed after the notice of appeal had been filed, thereby stripping the district court of  
10 its jurisdiction.”) (citing Williams v. Woodford, 384 F.3d 567, 586 (9th Cir. 2004)).

11 In addition, Bhatia’s motion violates Civil Local Rule 7-9(b), which requires a party  
12 seeking reconsideration to first seek leave to file such a motion, which he failed to do. The fact  
13 that Bhatia is pro se does not excuse him from complying with the rules governing cases in this  
14 Court. See Ghazali v. Moran, 46 F.3d 52, 54 (9th Cir. 1995) (“Although we construe pleadings  
15 liberally in their favor, pro se litigants are bound by the rules of procedure.”) (per curiam).  
16 Even if the Court were to consider the merits of the motion, the Court would find that it has  
17 none, as Bhatia merely repeats the same factually unsupported arguments that the Court has  
18 already considered and rejected. See Civ. L.R. 7-9(c) (“No motion for leave to file a motion  
19 for reconsideration may repeat any oral or written argument”).

20 The second motion before the Court is Bhatia’s “Motion Pursuant to Federal Rules of  
21 Civil Procedures (sic), Rule 60(b)(5) and 60(b)(6), to Commence Disciplinary Proceedings  
22 Against Asst. United States Attorney, Stephen G. Corrigan for His Unethical, Deceitful and  
23 Immoral Conduct in light of Ninth Circuit’s Opinion in Case No. 08-17784,” filed on May 5,  
24 2010. (Docket 36.) Under Rule 60(b), the Court may relieve a party of a judgment if “(5) the  
25 judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has  
26 been reversed or vacated; or applying it prospectively is no longer equitable; or ¶ (6) any  
27 other reason that justifies relief.” For the reasons stated above, the Court lacks jurisdiction to  
28

1 consider Bhatia’ motion to discipline AUSA Corrigan.<sup>2</sup> Jurisdiction aside, the motion merely  
2 repeats Bhatia’s prior meritless filings in this and his other civil case, Bhatia v. Office of the  
3 United States Attorney, N. Dist. of Cal., C 09-4881 SBA. Accordingly,

4 IT IS HEREBY ORDERED THAT Bhatia’s motion for reconsideration (Docket 32)  
5 and motion under Rule 60(b) (Docket 36) are DENIED. This Order terminates Docket 32 and  
6 36.

7 IT IS SO ORDERED.

8 Dated: 6/1/10

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT

<sup>2</sup> Though Bhatia filed the second motion after the Ninth Circuit’s ruling, jurisdiction remains with the appellate court. See United States v. Foumai, 910 F.2d 617, 620 (9th Cir. 1990) (“The jurisdiction of the court of appeals does not terminate until issuance of the mandate.”).

1 FOR THE  
2 NORTHERN DISTRICT OF CALIFORNIA

3 LAL BHATIA,

4 Plaintiff,

5 v.

6 UNITED STATES OF AMERICA et al,

7 Defendant.

---

8

9

Case Number: CV08-04208 SBA

10

**CERTIFICATE OF SERVICE**

11

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

12

13

That on June 2, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

14

15

16

17

Lal Bhatia 97562-011  
Federal Detention Center  
5675 - 8<sup>th</sup> Street  
Camp Parks  
Dublin, CA 94568

18

19

20

21

Dated: June 2, 2010

22

Richard W. Wieking, Clerk

23

By: LISA R CLARK, Deputy Clerk

24

25

26

27

28