

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00293-LTB

COREY BURGESS,

Applicant,

v.

CHARLES A. DANIELS,

Respondent.

ORDER DENYING MOTION TO RECONSIDER

Plaintiff, Corey Burgess, is a prisoner in the custody of the Federal Bureau of Prisons incarcerated at the United States Penitentiary, High Security, in Florence, Colorado. He filed *pro se* on December 23, 2013, a motion titled "Motion for Relief From a Judgment or Order/Amend Judgment/Stay Pending Disposition of Motion(s)" (ECF No. 52) pursuant to Rule 60(b) of the Federal Rules of Civil Procedure asking the Court to reconsider and vacate the Order of Dismissal (ECF No. 30) and the Judgment (ECF No. 31) entered in this action on May 2, 2013. On December 24, 2013, he filed an exhibit (ECF No. 53) to the December 23 motion.

The Court must construe the December 23 motion liberally because Mr. Burgess is not represented by an attorney. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons discussed below, the motion will be denied.

Mr. Burgess filed a notice of appeal (ECF No. 38) on May 31, 2013, and the

appeal was docketed in the United States Court of Appeals for the Tenth Circuit on June 3, 2013. Mr. Burgess filed his motion to reconsider with this Court on December 23.

The filing of a notice of appeal “is an event of jurisdictional significance—it 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.” *Stewart v. Donges*, 915 F.2d 572, 575 (10th Cir.1990) (citation omitted); *see also Garcia v. Burlington Northern R.R. Co.*, 818 F.2d 713, 721 (10th Cir.1987) (“Filing a timely notice of appeal ... transfers the matter from the district court to the court of appeals. The district court is thus divested of jurisdiction. Any subsequent action by it is null and void.”) (citations omitted). Mr. Burgess’s motion to reconsider must be denied because this Court was divested of its jurisdiction to consider matters presented by the Applicant upon the filing of his notice of appeal.

Accordingly, it is

ORDERED that the motion titled “Motion for Relief From a Judgment or Order/Amend Judgment/Stay Pending Disposition of Motion(s)” (ECF No. 52)“ that Applicant, Corey Burgess, filed *pro se* on December 23, 2013, is denied. It is

FURTHER ORDERED that any other pending motions are denied as moot.

DATED at Denver, Colorado, this 2nd day of January, 2014.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court