

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

RICKY L. SIROIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	2:17-cv-00324-GZS
	)	
BUREAU OF PRISONS, et al.,	)	
	)	
Defendants	)	

**ORDER ON PENDING MOTIONS**

On May 9, 2018, the Court granted Defendants’ motion to dismiss, and entered judgment in favor of Defendants. (Order, ECF No. 43; Judgment, ECF No. 44.) On May 24, 2018, Plaintiff filed a Notice of Appeal as to the Court’s order of dismissal. (Notice of Appeal, ECF No. 46.)

On the same day Plaintiff filed the Notice of Appeal, Plaintiff also filed a motion to reconsider the Court’s order denying his request to appoint counsel. (Motion, ECF No. 45.) Plaintiff subsequently filed a motion for discovery (ECF No. 50), a motion to add defendants and to appoint counsel (ECF No. 51), a motion to appoint counsel (ECF No. 52), and a motion requesting evidence. (ECF No. 53.)

“[A]s a general rule, the filing of a notice of appeal divests a district court of authority to proceed with respect to any matter touching upon, or involved in, the appeal.” *United States v. Brooks*, 145 F.3d 446, 455 (1st Cir. 1998) (internal quotation marks omitted). “[A] district court can proceed, notwithstanding the filing of an appeal, if the notice of appeal is defective in some substantial and easily discernible way (if, for example,

it is based on an unappealable order) or if it otherwise constitutes a transparently frivolous attempt to impede the progress of the case.” *Rivera-Torres v. Ortiz Velez*, 341 F.3d 86, 96 (1st Cir. 2003).

Because the Court cannot conclude that all of the matters raised by the motions are not involved in the appeal, and because the order from which Plaintiff has appealed is an appealable order, at this stage of the proceedings, the Court lacks the authority to grant Plaintiff the relief he seeks. The Court, therefore, dismisses Plaintiff’s motions without prejudice to Plaintiff’s ability to renew the motions in the event he is successful on the appeal.

**NOTICE**

Any objections to this Order shall be filed in accordance with Fed. R. Civ. P. 72.

/s/ John C. Nivison  
U.S. Magistrate Judge

Dated this 20<sup>th</sup> day of June, 2018.