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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL RAY HUGHES,
Plaintiff,
v.
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, *et al.*,
Defendants.

Case No. 2:09-CV-02381-KJD-LRL

ORDER

Before the Court is Plaintiffs Motion to Reopen Case (#42).

Plaintiff is a prisoner in Nevada Department of Corrections custody. On September 27, 2010, the Court issued an Order (#27) dismissing Plaintiff’s action. Plaintiff appealed the dismissal to the Ninth Circuit. Plaintiff and Defendants reached a settlement before the Ninth Circuit heard the appeal, and the Ninth Circuit dismissed the appeal on September 16, 2011 (#38).

Although it is not on the docket of this Court, Plaintiff appears to have filed a motion to reinstate the appeal and enforce the settlement agreement before the Ninth Circuit. On July 8, 2012, the Ninth Circuit issued an order denying the motion “without prejudice to filing an appropriate civil action in the district court.”

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Because this case is closed and because the settlement was reach while the issue was pending on appeal, the Court does not have jurisdiction to enforce the settlement agreement. See Kiefer v. Lithia Motors, Inc., 280 Fed.Appx. 606, 607 (9th Cir. 2008) (district court lacked jurisdiction because it did not retain it in order of dismissal or incorporate terms into order of dismissal) (quoting Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 381 (1994)). Plaintiff's remedy is to file a new action to enforce the settlement agreement as directed by the Ninth Circuit.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion to Reopen Case (#42) is **DENIED**.

DATED this 4th day of September 2012.



Kent J. Dawson
United States District Judge