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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

MICHAEL STEVE COX,

Plaintiff,

v.

DWIGHT NEVEN, *et al.*,

Defendants.

Case No. 2:11-cv-103-APG-NJK

**ORDER GRANTING SUMMARY  
JUDGMENT**

On March 19, 2013, this Court ordered that Plaintiff's Motion for Voluntary Dismissal [Dkt. #75] would be granted if plaintiff files proof that he has associated with counsel within 60 days of that Order. The Order [Dkt. #76] further stated that "[i]f Plaintiff fails to file proof that he has associated with counsel within 60 days, then the [Defendants'] Motion for Summary Judgment will be renewed and granted in accordance with this Order."


On March 28, 2013, plaintiff filed a Motion to Hold Proceedings in Abeyance, seeking to stay enforcement of the March 19 Order. The Court denied that Motion on April 30, 2013 [Dkt. #81], and required Plaintiff to comply with the Court's March 19, 2013 Order. Plaintiff has failed to file proof that he has associated with counsel. Instead, Plaintiff filed motions for Temporary Restraining Orders [Dkt. ##84, 86, 87], and a Notice of Appeal [Dkt. #82] attempting to appeal this Court's April 30, 2013 Order.

Generally, an Order denying a motion to stay the proceedings is not an appealable final order, nor does it come within the collateral order doctrine. *Mayacamas*

1 *Corp. v. Gulfstream Aerospace Corp.*, 806 F.2d 928, 930 (9th Cir. 1986). "Filing an  
2 appeal from an unappealable decision does not divest the district court of jurisdiction."  
3 *United States v. Hickey*, 580 F.3d 922, 927-28 (9th Cir. 2009). Consequently, "[w]hen a  
4 Notice of Appeal is defective in that it refers to a non-appealable interlocutory order, it  
5 does not transfer jurisdiction to the appellate court, and so the ordinary rule that the  
6 district court cannot act until the mandate has issued on the appeal does not apply."  
7 *Nascimento v. Dummer*, 508 F.3d 905, 908 (9th Cir. 2007). Thus, this Court retains  
8 jurisdiction to enforce its prior Orders in this case. Based on those prior Orders, and  
9 good cause appearing,

10 **IT IS HEREBY ORDERED** that Defendants' Motion for Summary Judgment [Dkt.  
11 #51] is renewed and GRANTED. The Clerk is directed to enter Judgment accordingly,  
12 and to accept no further filings from Plaintiff in this action.

13 Dated: May 30, 2013

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16 ANDREW P. GORDON  
17 UNITED STATES DISTRICT JUDGE  
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