



1 Mendoza filed the present motion for relief from judgment. Doc. #44.

2 **II. Discussion**

3 Mendoza brings his motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b)(6). A  
4 motion for relief from judgment is an “extraordinary remedy, to be used sparingly in the interests of  
5 finality and conservation of judicial resources.” *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d  
6 887, 890 (9th Cir. 2000). Rule 60(b)(6) provides that a district court may relieve a party from a  
7 final judgment for any reason that justifies such relief. FED. R. CIV. P. 60(b)(6).

8 The court has reviewed the documents and pleadings on file in this matter and finds that  
9 relief from judgment is not warranted in this action. In his motion, Mendoza argues that his action  
10 should have been stayed, rather than dismissed for his failure to exhaust his administrative  
11 remedies. However, there is no legal support for Mendoza’s argument. Rather, the opposite is true;  
12 if a district court determines that a prisoner has not exhausted his administrative remedies, “the  
13 proper remedy is dismissal of the claim.” *V Wyatt v. Terhune*, 315 F.3d 1108, 1119 (9th Cir. 2003).  
14 Therefore, the court finds that Mendoza has failed to meet his burden under Rule 60(b)(6) and the  
15 court shall deny his motion accordingly.

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17 IT IS THEREFORE ORDERED that plaintiff’s motion for relief from judgment (Doc. #44)  
18 is DENIED.

19 IT IS SO ORDERED.

20 DATED this 16th day of April, 2012.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE