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2  
3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF WASHINGTON

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6 CHRISTOPHER WILLIAMS,  
7 Plaintiff,  
8 v.  
9 JACKIE FLUAITT, et al.,  
10 Defendants.

No. 2:12-CV-5017-JTR

ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION

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12 **BEFORE THE COURT** is Plaintiff's Rule 60(b) motion for  
13 reconsideration. ECF No. 149. Plaintiff appears *pro se*. Defendants  
14 are represented by Candie M. Dibble and Joseph T. Edwards.

15 On December 23, 2013, the Court entered an order adopting the  
16 Magistrate Judge's report and recommendation and granting Defendants'  
17 motion for summary judgment, denying Plaintiff's motion for summary  
18 judgment, dismissing the complaint with prejudice and closing the  
19 file. ECF No. 130. Judgment was entered on December 23, 2013. ECF  
20 No. 131. On February 14, 2014, Plaintiff appealed the Court's  
21 December 23, 2013 order and judgment to the United States Court of  
22 Appeals for the Ninth Circuit. ECF No. 141. On May 27, 2014, more  
23 than three months after filing the notice of appeal and more than five  
24 months after judgment was entered, Plaintiff moved this Court to  
25 reconsider the December 23, 2013 order under Rule 60(b) and set aside  
26 the judgment. ECF No. 149.

ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION - 1

1           The filing of a notice of appeal "confers jurisdiction on the  
2 court of appeals and divests the district court of its control over  
3 those aspects of the case involved in the appeal." *U.S. v. Ortega-*  
4 *Lopez*, 988 F.2d 70, 72 (9th Cir. 1993); *Griggs v. Provident Consumer*  
5 *Discount Co.*, 459 U.S. 56, 58 (1982) ("The filing of a notice of  
6 appeal is an event of jurisdictional significance-it confers  
7 jurisdiction on the court of appeals and divests the district court of  
8 its control over those aspects of the case involved in the appeal.").  
9 When a judgment is appealed, jurisdiction over the case passes to the  
10 appellate court. *Davis v. United States*, 667 F.2d 822, 824 (9th Cir.  
11 1982). An exception to this general rule has been recognized under  
12 specific statutory authority. Pursuant to Fed.R.App.P. 4(a)(4), the  
13 district court may retain jurisdiction if a party files a motion for  
14 relief under Rule 60 "if the motion is filed no later than 28 days  
15 after the judgment is entered." Fed.R.App.P. 4(a)(4)(vi).  
16 Plaintiff's Rule 60 motion does not satisfy the requirements of  
17 Fed.R.App.P. 4(a)(4)(vi). The Court thus lacks jurisdiction to  
18 address Plaintiff's motion for reconsideration.

19           Accordingly, **IT IS HEREBY ORDERED** Plaintiff's Rule 60(b) motion  
20 for reconsideration, **ECF No. 149**, is **DENIED**.

21           **IT IS SO ORDERED.** The District Court Executive is hereby  
22 directed to enter this order and furnish copies to Plaintiff and  
23 counsel for Defendants.

24           **DATED** this   4th   day of June, 2014.

25   **s/Lonny R. Suko**

26   \_\_\_\_\_  
  Lonny R. Suko  
  Senior United States District Judge