

MAY 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ETTA M. COLLIER,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>COUNTY OF LOS ANGELES,</p> <p>Defendant - Appellee.</p>
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No. 08-56670

D.C. No. 2:06-cv-05267-JFW-AJW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

Etta M. Collier appeals pro se from the district court's order denying her motion under Rule 60(b) of Federal Rules of Civil Procedure for relief from the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

judgment in dismissing her 42 U.S.C. § 1983 action. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion the district court's denial of a motion for relief from judgment. *Maraziti v. Thorpe*, 52 F.3d 252, 253 (9th Cir. 1995). We affirm.

The district court did not abuse its discretion by denying Collier's motion because she did not demonstrate excusable neglect or any other viable ground for relief under Rule 60(b). *See Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993).

We lack jurisdiction to consider Collier's challenges to the underlying judgment because she failed to file a timely notice of appeal as to the underlying judgment. *See Fed. R. App. P. 4(a)*; *see also Kyle v. Campbell Soup Co.*, 28 F.3d 928, 931 (9th Cir. 1994) ("Inadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute 'excusable' neglect").

Collier's remaining contentions are unpersuasive.

AFFIRMED.