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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID WORTH O'BEIRN,

Plaintiff - Appellant,

v.

DEPARTMENT OF VETERANS
AFFAIRS,

Defendant - Appellee.

No. 09-35014

D.C. No. 2:07-cv-00805-RAJ

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

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

** The panel unanimously concludes this case is suitable for decision without oral argument, and therefore denies O'Beirn's request for oral argument. *See* Fed. R. App. P. 34(a)(2).

David Worth O’Beirn appeals pro se from the district court’s order denying his motion for relief from judgment in his Federal Tort Claims Act action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097, 1100 (9th Cir. 2006). We affirm.

The district court did not abuse its discretion by denying O’Beirn’s Rule 60(b) motion because he did not demonstrate any ground for relief from judgment or for reconsideration. *See* Fed. R. Civ. P. 60(b); *see also* 38 U.S.C. § 511(a) (providing that decisions related to the provision of a veteran’s benefits “may not be reviewed by any court, whether by an action in the nature of mandamus or otherwise.”); *Hicks v. Small*, 69 F.3d 967, 969 (9th Cir. 1995).

To the extent that O’Beirn challenges the underlying judgment, we lack appellate jurisdiction. *See* Fed. R. App. P. 4(a); Fed. R. Civ. P. 6(b)(2).

We do not consider O’Beirn’s arguments raised for the first time on appeal. *See Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007).

O’Beirn’s remaining contentions are unpersuasive.

O’Beirn’s pending motions are denied.

AFFIRMED.