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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHNNY EARL EVANS,

Plaintiff - Appellant,

v.

JEANNE S. WOODFORD, et al.,

Defendants - Appellees.

No. 09-15070

D.C. No. 1:06-cv-01250-ALA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Arthur L. Alarcón, Circuit Judge, Presiding**

Submitted May 25, 2010***

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Johnny Earl Evans, a California state prisoner, appeals pro se from the

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

** The Honorable Arthur L. Alarcón, United States Circuit Judge for the Ninth Circuit, sitting by designation.

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, appellant's request for oral argument is denied.

district court's order denying his motion for reconsideration in his 42 U.S.C. § 1983 action alleging violations of his First and Eighth Amendment rights. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion, *Latshaw v. Trainer Wortham & Co., Inc.*, 452 F.3d 1097, 1100 (9th Cir. 2006), and we affirm.

In his motion for reconsideration, Evans repeated the arguments raised in his oppositions to the motion to dismiss: that both his grievance and citizen's complaint satisfied the administrative exhaustion requirement or, in the alternative, that he was excused from compliance with the exhaustion requirement. The district court did not abuse its discretion by denying the motion for reconsideration because Evans failed to establish "manifest injustice" to warrant relief from judgment. *Id.* at 1103 (explaining that Federal Rule of Civil Procedure 60(b)(6) "is used sparingly as an equitable remedy to prevent manifest injustice" (internal quotation marks and citation omitted)).

Evans's remaining contentions are unpersuasive.

AFFIRMED.