

DEC 27 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DENGE LEMO GAHANO,

Plaintiff - Appellant,

v.

UNITED STEEL WORKERS
INTERNATIONAL UNION LOCAL 8-
0369 (USW), FKA PACE; SUNDIAL
MARINE & PAPER,

Defendants - Appellees.

No. 09-35603

D.C. No. 3:05-cv-01946-AJB

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Anna J. Brown, District Judge, Presiding

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Denge Lemo Gahano appeals pro se from the district court's order denying his motion for relief from judgment under Rule 60(b) of the Federal Rules of Civil

* 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. See Fed. R. App. P. 34(a)(2).

Procedure. We review de novo questions of jurisdiction concerning Rule 60(b) motions, *Davis v. Yageo Corp.*, 481 F.3d 661, 673 (9th Cir. 2007), and we dismiss.

Approximately a year after the district court entered judgment and Gahano filed a timely notice of appeal, he filed a motion in the district court for relief from judgment. Because the notice of appeal divested the district court of jurisdiction to consider his motion, the district court properly refused to consider it and denied it. *See id.* at 685 (“Once an appeal is filed, the district court no longer has jurisdiction to consider motions to vacate judgment”). Moreover, where, as here, “the underlying judgment has been appealed, denial of a motion for relief from that judgment is a nonappealable order.” *Gould v. Mut. Life Ins. Co. of New York*, 790 F.2d 769, 772 (9th Cir. 1986). Accordingly, we dismiss Gahano’s appeal of the denial of his Rule 60(b) motion and also deny as moot his motion filed on April 30, 2010.

DISMISSED.