

SEP 25 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CAREY DWAYNE DORSEY,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,</p> <p>Defendant - Appellee.</p>
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No. 11-55434

D.C. No. 3:09-cv-00519-BEN-
AJB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Carey Dwayne Dorsey appeals pro se from the district court's order denying his motion for reconsideration in his Freedom of Information Act action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Sch.*

* 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).

Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993). We affirm in part and dismiss in part.

The district court did not abuse its discretion in denying Dorsey's motion for reconsideration because Dorsey failed to show grounds warranting reconsideration. *See id.* at 1263 (setting forth grounds for reconsideration).

We lack jurisdiction to review the district court's summary judgment because Dorsey failed to file a timely notice of appeal from the judgment. *See Fed. R. App. P. 4(a)(1), (4)* (notice of appeal must be filed within sixty days after entry of judgment if one of the parties is a United States agency, and only timely tolling motion suspends time to appeal). Accordingly, we dismiss that portion of the appeal.

AFFIRMED in part; DISMISSED in part.