

JAN 23 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANSELMO A. PEDROZA,

Petitioner - Appellant,

v.

JAMES E. TILTON,

Respondent - Appellee.

No. 09-55559

D.C. No. 3:05-cv-02169-BTM-
PCL

MEMORANDUM*

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

Argued and Submitted January 9, 2013
Pasadena, California

Before: REINHARDT and WARDLAW, Circuit Judges, and BELL, District
Judge.**

Anselmo Pedroza appeals the district court's order denying his motion for
relief from judgment pursuant to Federal Rule of Civil Procedure Rule 60(b)(6).

We affirm.

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

** The Honorable Robert Holmes Bell, District Judge for the U.S.
District Court for the Western District of Michigan, sitting by designation.

The district court did not abuse its discretion when it denied Pedroza’s Rule 60(b)(6) motion. *See G.C. & K.B. Investments, Inc. v. Wilson*, 326 F.3d 1096, 1108 (9th Cir. 2003). Federal Rule of Appellate Procedure Rule 4(a) provides the exclusive means for extending the time to file a notice of appeal in a civil case where the party did not receive notice of the entry of judgment. *In re Stein*, 197 F.3d 421, 425 (9th Cir. 1999). A motion to reopen must be filed “within 180 days after the judgment or order is entered. . . .” Fed. R. App. P. 4(a)(6)(B). This 180 period is the outer limit beyond which no relief can be granted, and a party who fails to file a notice of appeal in this time “lose[s] the right to appeal.” *Stein*, 197 F.3d at 425. The district court entered judgment denying Pedroza’s habeas petition on June 12, 2007. Pedroza did not file his motion to reopen until February 17, 2009, well beyond the 180 day period. Accordingly, the district court correctly denied Pedroza’s motion for relief from judgment.

Pedroza argues that his objections to the magistrate's report and recommendations served as a premature notice of appeal. He is in error. His objections were just that—objections to the magistrate's report. Therefore, we cannot construe them as a notice of appeal.

AFFIRMED.