

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2018

FOR THE NINTH CIRCUIT

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

GARLAND A. JONES,

No. 17-17060

Plaintiff-Appellant,

D.C. No. 1:15-cv-01037-MJS

v.

MEMORANDUM\*

TOLSON; et al.,

Defendants-Appellees.

Appeal from the United States District Court  
for the Eastern District of California  
Michael J. Seng, Magistrate Judge, Presiding

Submitted February 13, 2018\*\*

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

Garland A. Jones, a California state prisoner, appeals pro se from the magistrate judge's order denying his motion for relief from judgment. We dismiss this appeal for lack jurisdiction because Jones failed to appeal timely from the magistrate judge's order denying his motion for relief from judgment. *See Fed. R.*

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2).*

App. P. 4(a)(1)(A); *Bowles v. Russell*, 551 U.S. 205, 209 (2007) (timely notice of appeal is mandatory and jurisdictional); *see also* Fed. R. App. P. 4(c)(1) (inmate's notice of appeal is deemed filed when deposited in the institution's internal mail system if accompanied by supporting declaration or evidence); *Houston v. Lack*, 487 U.S. 266, 273 (1988) (pro se prisoner's notice of appeal is deemed filed when delivered to the prison authorities for forwarding to the court).

**DISMISSED.**