

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 29 2018

FOR THE NINTH CIRCUIT

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

JERRY DILLINGHAM,

Plaintiff-Appellant,

v.

T. JOHNSON, C/O; et al.,

Defendants-Appellees.

No. 17-16288

D.C. No. 4:13-cv-05777-YGR

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Yvonne Gonzalez Rogers, District Judge, Presiding

Submitted May 15, 2018**

Before: SILVERMAN, BEA, and WATFORD, Circuit Judges.

Jerry Dillingham, a California state prisoner, appeals pro se from the district court's order denying his post-judgment motion for relief from summary judgment in his 42 U.S.C. § 1983 action alleging constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the

* 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).

district court's denial of a Federal Rule of Civil Procedure 60(b) motion. *Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097, 1100 (9th Cir. 2006). We affirm.

The district court did not abuse its discretion by denying Dillingham's motion for reconsideration because Dillingham failed to show any grounds warranting relief. *See id.* at 1103 (a party who moves for relief under Rule 60(b)(6) "must demonstrate both injury and circumstances beyond his control that prevented him from proceeding with . . . the action in a proper fashion" (citation and internal quotation marks omitted)).

Appellees' motion to take judicial notice (Docket Entry No. 21) is denied as unnecessary.

AFFIRMED.