

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 21 2018

FOR THE NINTH CIRCUIT

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

MICHAEL LOUIS BEATTIE,

Plaintiff-Appellant,

v.

L. ROMERO, Correctional Officer; et al.,

Defendants-Appellees.

No. 17-55833

D.C. No. 3:14-cv-01448-H-JMA

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Marilyn L. Huff, District Judge, Presiding

Submitted August 15, 2018**

Before: FARRIS, BYBEE, and N.R. SMITH, Circuit Judges.

California state prisoner Michael Louis Beattie appeals pro se from the district court's post-judgment order denying his motion to vacate summary judgment in his 42 U.S.C. § 1983 action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Latshaw v. Trainer Wortham &*

* 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).

Co., 452 F.3d 1097, 1100 (9th Cir. 2006). We affirm.

The district court did not abuse its discretion in denying Beattie's Fed. R. Civ. P. 60(b) motion because Beattie failed to demonstrate any grounds warranting such relief. *See id.* at 1100-03 (discussing grounds for relief under Rule 60(b), and explaining that Rule 60(b)(6) relief is granted "only where extraordinary circumstances" are present (citations and quotation marks omitted)). Contrary to Beattie's contention, *Andres v. Marshall*, 867 F.3d 1076 (9th Cir. 2017) (per curiam), is factually distinguishable from his case.

We do not consider Beattie's contentions concerning the merits of the underlying case because "[a]n appeal from a denial of a Rule 60(b) motion brings up only the denial of the motion for review, not the merits of the underlying judgment." *Molloy v. Wilson*, 878 F.2d 313, 315 (9th Cir. 1989).

All pending motions are denied.

AFFIRMED.