

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 5 2020

FOR THE NINTH CIRCUIT

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

DEREK CLAUDE WATKINS,

Plaintiff-Appellant,

v.

GOGOIU, Mesa P.D. Officer #16912; et al.,

Defendants-Appellees

No. 19-15721

D.C. No. 2:16-cv-02779-JJT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John Joseph Tuchi, District Judge, Presiding

Submitted June 2, 2020**

Before: LEAVY, PAEZ, and BENNETT, Circuit Judges.

Derek Claude Watkins appeals pro se from the district court's judgment in his 42 U.S.C. § 1983 action alleging illegal search and seizure. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

We lack jurisdiction to consider Watkins's challenge to the underlying

* 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).

judgment because Watkins failed to file a timely notice of appeal as to the underlying judgment, and Watkins's postjudgment motion did not toll the time to appeal from the judgment. *See* Fed. R. App. P. 4(a)(1)(A); 4(a)(4)(A) (listing tolling motions); *United States ex rel. Hoggett v. Univ. of Phoenix*, 863 F.3d 1105, 1107, 1109 (9th Cir. 2017) (a timely notice of appeal is mandatory and jurisdictional; this court will "not strain to characterize artificially a motion as something it is not, simply to keep an appeal alive" (citations and internal quotation marks omitted)).

The district court did not abuse its discretion in denying Watkins's postjudgment discovery motion or in striking Watkins's proposed amended complaint, which was filed without seeking leave and after the entry of judgment. *See Hines v. Youseff*, 914 F.3d 1218, 1227 (9th Cir. 2019) (standard of review for leave to amend); *Quinn v. Anvil Corp.*, 620 F.3d 1005, 1015 (9th Cir. 2010) (standard of review for discovery ruling).

All pending motions are denied.

AFFIRMED.