

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 16 2023

FOR THE NINTH CIRCUIT

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

E. K. WADE,

Plaintiff-Appellant,

v.

WOODY GILLILAND; et al.,

Defendants-Appellees.

No. 21-17007

D.C. No. 3:10-cv-00425-WHA

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
William Alsup, District Judge, Presiding

Submitted June 16, 2023\*\*  
San Francisco, California

Before: WALLACE, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

E.K. Wade appeals pro se from the district court's post-judgment order denying relief from its June 2010 prefilng order declaring Wade a vexatious litigant and requiring him to obtain permission before filing additional actions related to his termination. We have jurisdiction under 28 U.S.C. § 1291.

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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).

Reviewing for an abuse of discretion, *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056 (9th Cir. 2007), we affirm.

Denial of Wade's motion to reopen the case was not an abuse of discretion. We liberally construe Wade's motion as one under Federal Rule of Civil Procedure 60(b). To the extent the motion sought relief under either Rule 60(b)(1) or 60(b)(3), the district court lacked jurisdiction to consider it because the motion was filed more than one year after judgment was entered. *See* Fed. R. Civ. P. 60(c)(1); *Nevitt v. United States*, 886 F.2d 1187, 1188 (9th Cir. 1989). To the extent that the motion fell within Rule 60(b)(4) or 60(b)(6), Wade failed to establish any circumstances justifying relief. *See Mackey v. Hoffman*, 682 F.3d 1247, 1251 (9th Cir. 2012).

We do not consider the underlying prefiling order because the notice of appeal is untimely as to that order. *See* Fed. R. App. P. 4(a)(4)(A)(vi); *Stephanie-Cardona LLC v. Smith's Food & Drug Ctrs., Inc.*, 476 F.3d 701, 703 (9th Cir. 2007).

**AFFIRMED.**<sup>1</sup>

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<sup>1</sup> The motions for reconsideration (Dkt. Nos. 20, 21) are DENIED.