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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HUSSAIN D. VAHIDALLAH,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>SAN DIEGO HOUSING COMMISSION; et al.,</p> <p>Defendants - Appellees.</p>
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No. 08-56351

D.C. No. 3:07-cv-00371-JM

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Jeffrey T. Miller, District Judge, Presiding

Submitted February 23, 2009\*\*

Before: KOZINSKI, Chief Judge, HAWKINS and GOULD, Circuit Judges.

This is an appeal from the district court’s order dismissing with prejudice appellant’s third amended complaint for failure to state a viable or intelligible

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

claim for relief. On December 5, 2008, this court ordered appellant to show cause why the district court's order challenged in this appeal should not be summarily affirmed. In response to that order, the court received an informal opening brief from appellant. Appellees filed a response to the opening brief.

A dismissal for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) is reviewed de novo. *See Decker v. Advantage Fund, Ltd.*, 362 F.3d 593, 595-96 (9th Cir. 2004). A review of the record and the parties' submissions in this appeal indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). The district court properly dismissed appellant's third amended complaint for failure to state a claim.

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

**AFFIRMED.**