

AUG 31 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EDISON R. WALKER,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>STATE OF NEVADA; et al.,</p> <p>Defendants - Appellees.</p>

No. 07-15557

D.C. No. CV-05-00299-JCM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Submitted August 20, 2009**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Edison R. Walker appeals from the district court’s order denying his motion under Federal Rule of Civil Procedure 60(b)(1) for relief from the judgment. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion,

* 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).

Franchise Holding II, LLC. v. Huntington Rests. Group, Inc., 375 F.3d 922, 927 n.4 (9th Cir. 2004), and we affirm.

The district court did not abuse its discretion by denying Walker's motion because it was filed three-and-a-half months after judgment was entered and Walker presented no justifiable reason for the delay. *See id.* at 927 (discussing factors relevant to whether neglect was excusable under Rule 60(b)).

AFFIRMED.