

DEC 08 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>REUBEN NIEVES,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>WORLD SAVINGS BANK, FSB; WACHOVIA MORTGAGE CORPORATION</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 08-16839

D.C. No. 2:08-cv-00988-MCE-
GGH

MEMORANDUM *

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted November 17, 2009**

Before: TROTT, TASHIMA, and WARDLAW, Circuit Judges.

Reuben Nieves appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 claim alleging, inter alia, that the defendant banks violated

* 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), and therefore denies Nieves's motion for oral argument.

his due process rights by proceeding with a non-judicial foreclosure sale on his property. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo. *Rivera v. United States*, 924 F.2d 948, 950 (9th Cir. 1991). We affirm.

The district court properly dismissed the action because Nieves failed to allege facts demonstrating that the defendants' conduct constituted government action sufficient to support a claim under section 1983 or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). See *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 56 (1999) (explaining that extensive regulation does not convert a private company into a state actor liable under section 1983); *Apao v. Bank of N.Y.*, 324 F.3d 1091, 1095 (9th Cir. 2003) (concluding that a bank using a non-judicial foreclosure procedure provided by state law was not a government actor under section 1983); *Mathis v. Pac. Gas & Elec. Co.*, 891 F.2d 1429, 1432 n.3 (9th Cir. 1989) ("The standards for determining whether an action is governmental are the same whether the purported nexus is to the state or to the federal government.").

Nieves's remaining contentions are unpersuasive.

Appellees' motions to take judicial notice are granted.

AFFIRMED.