

AUG 05 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>In re: DAVINDER KAUR,</p> <p style="text-align: center;">Debtor,</p> <hr/> <p>SAHERINDER KAUR,</p> <p style="text-align: center;">Appellant,</p> <p style="text-align: center;">v.</p> <p>DAVINDER KAUR,</p> <p style="text-align: center;">Appellee.</p>
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No. 11-60052

BAP No. 10-1398

MEMORANDUM*

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Hollowell, Pappas, and Jury, Bankruptcy Judges, Presiding

Submitted July 24, 2013**

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

Saherinder Kaur appeals pro se from the Bankruptcy Appellate Panel's

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

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

(“BAP”) judgment affirming the bankruptcy court’s judgment determining that chapter 7 debtor Davinder Kaur’s obligation to Saherinder Kaur was dischargeable. We have jurisdiction under 28 U.S.C. § 158(d). We review de novo BAP decisions, and apply the same standard of review that the BAP applied to the bankruptcy court’s ruling. *Anastas v. Am. Sav. Bank (In re Anastas)*, 94 F.3d 1280, 1283 (9th Cir. 1996). We review for clear error findings of fact, including a finding whether a requisite element of 11 U.S.C. § 523(a) is present. *Id.* We affirm.

The bankruptcy court did not clearly err in finding that Davinder Kaur did not engage in misrepresentation or fraud, and therefore properly concluded that the obligation arising from a state court judgment was dischargeable. *See* 11 U.S.C. § 523(a)(2)(A) (excepting from discharge debt obtained by false pretenses, false representations, or actual fraud); *id.* § 523(a)(4) (excepting from discharge debt caused by the debtor’s fraud or defalcation while acting in a fiduciary capacity); *Anderson v. City of Bessemer City, N.C.*, 470 U.S. 564, 575 (1985) (“[W]hen a trial judge’s finding is based on his decision to credit the testimony of one of two or more witnesses, each of whom has told a coherent and facially plausible story that is not contradicted by extrinsic evidence, that finding, if not internally inconsistent,

can virtually never be clear error.”).

AFFIRMED.