

OCT 21 2014

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID KISSI,

Plaintiff - Appellant,

v.

BANK OF AMERICA, Countrywide;
SPECIALIZED LOAN SERVICING,
LLC,

Defendants - Appellees.

No. 12-57138

D.C. No. 2:12-cv-07540-JFW-
MRW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted October 14, 2014**

Before: LEAVY, GOULD, and BERZON, Circuit Judges.

David Kissi appeals pro se from the district court's judgment dismissing his action alleging claims in connection with a foreclosure. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's finding that it

* 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).

lacked subject matter jurisdiction. *Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082, 1086 (9th Cir. 2014). We affirm.

The district court properly determined that Kissi failed to allege facts sufficient to establish subject matter jurisdiction because he alleged only state law claims in his complaint and failed to allege diversity of citizenship. *See* 28 U.S.C. §§ 1331, 1332(a)(1); *see also* *Provincial Gov't of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1086-87 (9th Cir. 2009) (discussing requirements for federal question jurisdiction under § 1331); *Kuntz v. Lamar Corp.*, 385 F.3d 1177, 1181-82 (9th Cir. 2004) (addressing diversity of citizenship under § 1332). We treat the judgment as a dismissal without prejudice. *See* *Kelly v. Fleetwood Enters., Inc.*, 377 F.3d 1034, 1036 (9th Cir. 2004) (dismissals for lack of subject matter jurisdiction should be without prejudice).

Appellees' motion for judicial notice, filed on February 14, 2014, is denied as unnecessary.

AFFIRMED.