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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FREDERICK BATES, Plaintiff - Appellant, v. CITY OF SAN JOSE; et al., Defendants - Appellees.	No. 13-16397 D.C. No. 5:06-cv-05302-RMW MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Ronald M. Whyte, District Judge, Presiding

Submitted July 21, 2015**

Before: CANBY, BEA, and MURGUIA, Circuit Judges.

Frederick Bates appeals pro se from the district court's post-judgment order denying his motion for relief from judgment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the denial of Bates' motion to vacate under Fed. R. Civ. P. 60(b)(4), *Export Group v. Reef Indus., Inc.*, 54 F.3d 1466, 1469

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

(9th Cir. 1995), and for an abuse of discretion the denial of Bates' motion to vacate under Fed. R. Civ. P. 60(d)(3), *United States v. Estate of Stonehill*, 660 F.3d 415, 443 (9th Cir. 2011). We affirm.

The district court properly determined that Bates was not entitled to relief under Rule 60(b)(4) because the district court's prior judgment was not void due to jurisdictional error or a violation of due process. *See United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270-71 (2010) ("Rule 60(b)(4) applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard.").

The district court did not abuse its discretion in denying Bates relief under Rule 60(d)(3) because Bates failed to establish by clear and convincing evidence that the alleged scheme produced a "fraud on the court." *Estate of Stonehill*, 660 F.3d at 443-44 ("Courts have inherent equity power to vacate judgments obtained by fraud.").

We reject Bates' contentions that the district court improperly corrected its "judgment," or that it failed to provide Bates with notice of the hearing on his motion.

Bates' opposed motion to vacate the district court's judgment, filed on September 25, 2014, is denied.

AFFIRMED.