

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 17 2015

FOR THE NINTH CIRCUIT

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

MARIANO V. HERNANDO,

No. 13-17612

Plaintiff - Appellant,

D.C. No. 1:13-cv-00140-SOM-
BMK

v.

PATRICIA HAMAMOTO; et al.,

MEMORANDUM*

Defendants - Appellees.

Appeal from the United States District Court
for the District of Hawaii
Susan Oki Mollway, Chief Judge, Presiding

Submitted December 9, 2015**

Before: WALLACE, RAWLINSON, and IKUTA, Circuit Judges.

Mariano V. Hernando appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging constitutional violations in connection with the Hawaii Department of Education's hiring process. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of

* 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).

discretion a district court's denial of a request for recusal, *Pesnell v. Arsenault*, 543 F.3d 1038, 1043 (9th Cir. 2008), and we affirm.

The district court did not abuse its discretion by denying Hernando's request for recusal because Hernando failed to allege any evidence that the judges had engaged in improper ex parte communications or other conduct that would call into question their impartiality. *See id.* at 1043-44 (the substantive standard for evaluating a motion to recuse is "[w]hether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned" (citation and internal quotation marks omitted)).

We reject Hernando's contentions concerning the timing of the filing of the parties' briefs on appeal.

We do not consider issues that are not supported by argument or clearly and distinctly raised in the opening brief. *See Pierce v. Multnomah County, Or.*, 76 F.3d 1032, 1037 n.3 (9th Cir. 1996) (issues not supported by argument in pro se brief are deemed abandoned); *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) ("We review only issues which are argued specifically and distinctly in a party's opening brief.").

AFFIRMED.