

JAN 26 2017

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: JOHN SHEK,

Debtor.

JOHN SHEK,

Appellant,

v.

JANINA M. HOSKINS, Trustee; UNITED
STATES TRUSTEE,

Appellees.

No. 14-60077

BAP No. 13-1331

MEMORANDUM*

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

Submitted January 18, 2017**

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

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

John Shek appeals pro se from the Bankruptcy Appellate Panel’s judgment affirming the bankruptcy court’s order dismissing Shek’s bankruptcy petition for failure to file timely schedules and other required documents. 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. *Boyajian v. New Falls Corp. (In re Boyajian)*, 564 F.3d 1088, 1090 (9th Cir. 2009). We affirm.

The bankruptcy court properly dismissed Shek’s bankruptcy petition because Shek failed to file all required documents in a timely manner, despite at least three extensions of the deadline by the bankruptcy court. *See* 11 U.S.C. § 521(a), (i); *see also Wirum v. Warren (In re Warren)*, 568 F.3d 1113, 1116 (9th Cir. 2009) (discussing dismissals under 11 U.S.C. § 521).

We reject Shek’s arguments, made for the first time on appeal, that the bankruptcy court should have waived the filing requirements, and that his property was improperly sold. *See Kaass Law v. Wells Fargo Bank, N.A.*, 799 F.3d 1290, 1293 (9th Cir. 2015) (“Ordinarily, an appellate court will not hear an issue raised for the first time on appeal.”); *In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 992 (9th Cir. 2010) (an issue will generally be deemed waived on appeal if the argument was not raised sufficiently for the trial court to rule on it).

Contrary to Shek's contention that his filing fee should have been waived, he did not apply for waiver of the fee. *See Fed. R. App. P. 24.*

We reject as unsupported by the record Shek's argument that an attorney representing the United States Trustee tricked Shek into waiving his rights.

Shek's request to deny the appearance of Terri Didion on behalf of the United States Trustee, filed July 15, 2015, is denied.

Shek's "request[s] unavailability," filed July 31, 2015, and October 14, 2015, are denied as unnecessary.

AFFIRMED.