

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 30 2017

FOR THE NINTH CIRCUIT

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

GILBERT E. MARTINEZ,

No. 14-56569

Plaintiff-Appellant,

D.C. No. 3:12-cv-00802-CAB-BGS

v.

MEMORANDUM*

WELLS FARGO BANK, NA, as Trustee
for Bear Stearns Asset Backed Securities I,
LLC, Green Point Mortgage Funding Trust
2006-AR1, Mortgage Pass-Through
Certificates Series 2006-AR1; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of California
Cathy Ann Bencivengo, District Judge, Presiding

Submitted January 18, 2017**

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

Gilbert E. Martinez appeals pro se from the district court's judgment
dismissing his diversity action alleging state law claims arising from foreclosure

* 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).

proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1040 (9th Cir. 2011), and we affirm.

The district court properly dismissed Martinez's action because Martinez failed to allege facts sufficient to state any plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

The district court did not abuse its discretion by denying Martinez's motion to vacate the judgment because Martinez failed to establish grounds warranting relief. *See Casey v. Albertson's Inc.*, 362 F.3d 1254, 1257, 1260 (9th Cir. 2004) (setting forth standard of review and requirements to vacate judgment); *United States v. Berke*, 170 F.3d 882, 883 (9th Cir. 1999) (discussing Fed. R. Civ. P. 60(b)(4) motion requirements).

We reject as unsupported by the record Martinez's contentions that the district court lacked jurisdiction to rule on defendants' motion to dismiss due to its bias and denial of Martinez's due process rights. *See Liteky v. United States*, 510 U.S. 540, 554 (1994) (recognizing that adverse judicial rulings almost never constitute a basis for finding judicial bias).

We do not consider arguments not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.