

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 19 2018

FOR THE NINTH CIRCUIT

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

FRANK KONARSKI, DBA FGPI
Apartments & Development; et al.,

Plaintiffs-Appellants,

v.

MICHAEL G. RANKIN; et al.,

Defendants-Appellees.

No. 15-17182

D.C. No. 4:13-cv-00999-DCB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted January 16, 2018**

Before: REINHARDT, TROTT, and HURWITZ, Circuit Judges.

Frank, Gabriela, Patricia, John, and Frank E. Konarski appeal from the district court's judgment dismissing for failure to prosecute their 42 U.S.C. § 1983 action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's order denying a motion for relief from judgment, *Sch.*

* 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).

Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993), and we affirm.

The district court did not abuse its discretion by denying the Konarskis' motion under Federal Rules of Civil Procedure 59(e) and 60(b)(1) because the Konarskis failed to demonstrate excusable neglect or any other ground for relief. *See ACandS*, 5 F.3d at 1263 (setting forth grounds for reconsideration under Rules 59(e) and 60(b)); *see also Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1261 (9th Cir. 2010) (setting forth four-factor equitable test for determining whether a party's failure to meet a deadline constitutes "excusable neglect").

Appellees' request for oral argument (Docket Entry No. 17) is denied as moot.

AFFIRMED.