

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2018

FOR THE NINTH CIRCUIT

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

In re: JON W. CHAFFEE,

No. 17-60036

Debtor.

BAP No. 16-1241

B. CASEY YIM,

MEMORANDUM*

Appellant,

v.

JON W. CHAFFEE,

Appellee.

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Taylor, Faris, and Clement, Bankruptcy Judges, Presiding

Submitted February 13, 2018**

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

B. Casey Yim appeals pro se from the judgment of the Bankruptcy Appellate Panel (“BAP”) affirming the bankruptcy court’s judgment in favor of debtor Jon

* 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).

Chaffee in an adversary proceeding regarding the discharge of Yim's claim. 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. *Anastas v. Am. Sav. Bank (In re Anastas)*, 94 F.3d 1280, 1283 (9th Cir. 1996). We affirm.

The bankruptcy court did not clearly err in finding that Yim failed to demonstrate that his claim satisfied the elements for non-dischargeability under 11 U.S.C. § 523(a)(2)(A). *See id.* (factual determinations of whether elements of § 523(a)(2)(A) are satisfied are reviewed for clear error); *Ghomeshi v. Sabban (In re Sabban)*, 600 F.3d 1219, 1222 (9th Cir. 2010) (creditor has burden to show by a preponderance of the evidence that § 523(a)(2)(A) elements are met).

We do not consider matters not specifically and distinctly raised and argued in the opening briefs, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.