

FILED

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OSCAR GARCIA,

Plaintiff-Appellant,

v.

REGIONAL TRUSTEE SERVICES
CORPORATION and MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.,

Defendants-Appellees.

No. 13-16528

D.C. No.

3:11-cv-00470-RCJ-VPC

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Robert Clive Jones, District Judge, Presiding

Submitted October 21, 2016**
San Francisco, California

* 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).

Before: HAWKINS and CALLAHAN, Circuit Judges, and SOTO,*** District Judge.

Oscar Garcia (“Garcia”) appeals the Rule 12(b)(6) dismissal and adverse grant of summary judgment. We affirm.

There was no abuse of discretion in judicially noticing mortgage and foreclosure documents related to Garcia’s Nevada property. As matters of public record they are proper subjects of judicial notice. *See Ormsby v. First Am. Title Co. of Nev.*, 591 F.3d 1199, 1203 (9th Cir. 2010) (records of real property transactions are “official public records”); Fed. R. Evid. 201(b). Moreover, taking judicial notice of the documents did not prejudice Garcia because the district court did not rely on them in dismissing his claims. *See Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1110 (9th Cir. 2011) (reversal based on erroneous evidentiary rulings requires showing prejudice).

Nor did the district court abuse its discretion in admitting Melissa Hjorton’s declaration. Hjorton demonstrated personal knowledge in her declaration. *See Barthelemy v. Air Lines Pilots Ass’n*, 897 F.2d 999, 1018 (9th Cir. 1990) (court can infer personal knowledge from an affidavit itself).

*** The Honorable James Alan Soto, United States District Judge for the District of Arizona, sitting by designation.

Finally, because Garcia did not specifically and distinctly address other issues in his opening brief, they are abandoned on appeal. *Miller v. Fairchild Indus., Inc.*, 797 F.2d 727, 738 (9th Cir. 1986) (court of appeals will not ordinarily consider matters not specifically and distinctly argued in the opening brief).

AFFIRMED.