

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 20 2018

FOR THE NINTH CIRCUIT

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

EDWARD C. TIDWELL,

Plaintiff-Appellant,

v.

JPMC SPECIALTY MORTGAGE LLC,

Defendant-Appellee.

No. 17-16286

D.C. No. 3:17-cv-00009-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William Alsup, District Judge, Presiding

Submitted June 12, 2018**

Before: RAWLINSON, CLIFTON, and NGUYEN, Circuit Judges.

Edward C. Tidwell appeals pro se from the district court's order denying his motion to withdraw the voluntary dismissal with prejudice of his bankruptcy appeal. We have jurisdiction under 28 U.S.C. §§ 158(d) and 1291. We may affirm on any ground supported by the record, *Shanks v. Dressel*, 540 F.3d 1082, 1086

* 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).

(9th Cir. 2008), and we affirm.

Denial of Tidwell's motion to withdraw the notice of voluntary dismissal with prejudice was proper because, upon filing of the notice of voluntary dismissal, the district court was required to dismiss the appeal. *See* Fed. R. Bankr. P. 8023 ("The clerk of the district court . . . must dismiss an appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due."); *cf. Am. Soccer Co. v. Score First Enters.*, 187 F.3d 1108, 1109-12 (9th Cir. 1999) (reviewing de novo and concluding that a voluntary dismissal under Fed. R. Civ. P. 41(a)(1) takes effect without court order and cannot be vacated by the district court).

Because we affirm the district court's order denying Tidwell's motion to withdraw the notice of voluntary dismissal of his bankruptcy appeal, we do not consider Tidwell's arguments challenging the bankruptcy court's order.

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

All pending requests and motions are denied.

AFFIRMED.