

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 20 2021

FOR THE NINTH CIRCUIT

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

LEO KRAMER; AUDREY E. KRAMER,

No. 20-15095

Plaintiffs-Appellants,

D.C. No. 3:18-cv-00001-MMD-
WGC

v.

JPMORGAN CHASE BANK, N.A.; et al.,

MEMORANDUM*

Defendants-Appellees.

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, District Judge, Presiding

Submitted October 12, 2021**

Before: TALLMAN, RAWLINSON, and BUMATAY, Circuit Judges.

Leo and Audrey E. Kramer appeal pro se from the district court's order denying their motion for reconsideration in their action arising from foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a denial of a motion under Federal Rule of Civil Procedure 60.

* 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. The Kramers' request for oral argument, set forth in their briefs, is denied. *See* Fed. R. App. P. 34(a)(2).

Valdivia v. Schwarzenegger, 599 F.3d 984, 988 (9th Cir. 2010). We affirm.

The district court did not abuse its discretion by denying the Kramers' motion for reconsideration under Rule 60(b) because the motion was filed more than one year after the entry of judgment and relied on evidence that was available before the entry of judgment. *See* Fed. R. Civ. P. 60(c)(1) (requiring a motion under Rule 60(b) to be made within a reasonable time, and for reasons (1), (2), and (3) no more than a year after the entry of the judgment); *Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth grounds for relief under Rule 60(b)).

The district court did not abuse its discretion by denying the Kramers' motion for reconsideration under Rule 60(d)(3) because the Kramers failed to demonstrate any basis for relief. *See United States v. Estate of Stonehill*, 660 F.3d 415, 443-45 (9th Cir. 2011) (a party must establish fraud on the court by clear and convincing evidence).

We reject as meritless the Kramers' contentions that the district court was required to state findings of fact and conclusions of law in its post-judgment order, *see* Fed. R. Civ. P. 52(c), or that they were entitled to an evidentiary hearing.

We do not consider arguments or allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009). We do not consider documents not presented to the district court. *See United States v. Elias*,

921 F.2d 870, 874 (9th Cir. 1990).

The Kramers' motions for leave to file an oversized reply brief (Docket Entry Nos. 37 and 40) are granted. The Clerk will file the reply brief submitted at Docket Entry No. 38. All other pending motions are denied.

AFFIRMED.