

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 10 2023

FOR THE NINTH CIRCUIT

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

MICHAEL MALONE, AKA Jean Michale
Guerin,

Appellant,

v.

HYUNG SIK HAROLD YOO; EUN-MI
KIM YOO,

Appellees.

No. 22-35389

D.C. No. 2:21-cv-00646-RSM

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ricardo S. Martinez, District Judge, Presiding

Submitted October 10, 2023**

Before: O'SCANNLAIN, KLEINFELD, and SILVERMAN, Circuit Judges.

Michael Malone appeals the district court's order dismissing his bankruptcy appeal for failure to file a timely opening brief. We have jurisdiction under 28 U.S.C. §§ 158(d) and 1291. We review for an abuse of discretion. *See Pincay v.*

* 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).

Andrews, 389 F.3d 853, 858 (9th Cir. 2004) (en banc); *Fitzsimmons v. Nolden (In re Fitzsimmons)*, 920 F.2d 1468, 1471 (9th Cir. 1990). We affirm.

The district court did not abuse its discretion in denying Malone's late-filed motion for an extension of time to file his opening brief, because Malone failed to show that excusable neglect prevented a timely filing. *See* Fed. R. Bankr. P. 9006(b)(1); *Pioneer Inv. Servs Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993).

The district court did not abuse its discretion in dismissing Malone's appeal because he failed to file a timely opening brief. *See* Fed. R. Bankr. P. 8018(a)(4); *In re Fitzsimmons*, 920 F.2d at 1474. Malone failed to suggest any less drastic sanction.

The district court did not abuse its discretion in denying Malone's motion for reconsideration because Malone failed to establish any colorable basis for reconsideration. *See Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993) (stating standard of review).

Appellees' request for sanctions, made in their answering brief, is denied. *See, e.g., Blixseth v. Yellowstone Mountain Club, LLC*, 796 F.3d 1004, 1007 (9th Cir. 2015).

AFFIRMED.