

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 19 2024

FOR THE NINTH CIRCUIT

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

In re: KIMBERLY MARTIN-BRAGG,

No. 22-55771

Debtor,

D.C. No. 2:22-cv-02973-SVW

IVAN RENE MOORE,

MEMORANDUM\*

Appellant,

v.

KIMBERLY MARTIN-BRAGG,

Appellee.

Appeal from the United States District Court  
for the Central District of California  
Stephen V. Wilson, District Judge, Presiding

Submitted January 17, 2024\*\*

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

Ivan Rene Moore appeals pro se from the district court's order dismissing

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\* 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). Moore's request for oral argument, set forth in the opening brief, is denied.

his bankruptcy appeal for failure to prosecute. We have jurisdiction under 28 U.S.C. § 158(d).<sup>1</sup> We review for an abuse of discretion. *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 dismissing Moore’s appeal for failure to prosecute because Moore failed to file all of the documents required by Federal Rule of Bankruptcy Procedure 8009, despite the district court’s multiple warnings that failure to do so could result in dismissal. *See* Fed. R. Bankr. P. 8003(a)(2) (an appellant’s failure to take steps to prosecute a bankruptcy appeal may be grounds for dismissal); *Pagtalunan v. Galaza*, 291 F.3d 639, 640, 642-43 (9th Cir. 2002) (discussing factors to be considered before dismissing a case for failure to prosecute; a district court’s dismissal should not be disturbed absent “a definite and firm conviction” that it “committed a clear error of judgment” (citation and internal quotation marks omitted)); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992) (this court may review the record independently if the district court does not make explicit findings to show its consideration of the factors).

The district court did not abuse its discretion in denying Moore’s request to reinstate his appeal because Moore failed to establish grounds for such relief. *See* Fed. R. Bankr. P. 8022(a)(2); *United States v. Fowler* (*In re Fowler*), 394 F.3d

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<sup>1</sup> We reject as meritless appellee’s contention that Moore’s appeal is untimely as to the district court’s order dismissing Moore’s appeal for failure to prosecute.

1208, 1214-15 (9th Cir. 2005) (standard of review).

Moore's motion to file a corrected reply brief, corrected reply appendix, and corrected request for judicial notice (Docket Entry No. 21) is granted. The Clerk will file the corrected reply brief received at Docket Entry No. 22. The corrected reply appendix and corrected request for judicial notice were previously filed.

All other pending motions are denied.

**AFFIRMED.**