

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 5 2026

FOR THE NINTH CIRCUIT

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

IN RE: JEFFERSON LA BREA D&J
PROPERTIES, LLC, DEBTOR

No. 25-4356

TONY LEWIS,

D.C. No.

2:24-cv-10963-DSF

Plaintiff - Appellant,

MEMORANDUM*

v.

JEFFERSON LA BREA D&J
PROPERTIES, LLC,

Defendant - Appellee.

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Submitted March 2, 2026**
Pasadena, California

Before: WARDLAW and DE ALBA, Circuit Judges, and BROWN, District
Judge.***

* 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).

*** The Honorable Jeffrey Vincent Brown, United States District Judge
for the Southern District of Texas, sitting by designation.

Appellant Tony Lewis seeks review of the district court’s affirmance of the 11 U.S.C. § 363 bankruptcy sale of Appellee Jefferson La Brea D&J Properties, LLC’s (“LLC”) assets. We have jurisdiction under 28 U.S.C. § 158(d)(1). We affirm.

1. First, the LLC filed a motion to dismiss or expedite the appeal, which a motions panel denied in part (denying the motion to dismiss and granting the motion to expedite). The LLC incorporated its two arguments from that motion to its brief. Both fail.

This appeal is timely. The district court entered its judgment on June 11, 2025, and Lewis filed a notice of appeal on July 11, 2025. A would-be petitioner must file a notice of appeal “within 30 days after entry of the judgment.” Fed. R. App. P. 4(a)(1)(A). Because Lewis filed a notice of appeal within thirty days of the district court’s entry of judgment, this appeal is timely.

Next, Lewis did not fail to prosecute this appeal. While he may not have perfectly complied with filing a designation of record and statement of issues on appeal under Federal Rule of Appellate Procedure 6(b)(2)(B)(i), the LLC does not establish prejudice or any material effect on this appeal. *Cf. In re Fitzsimmons*, 920 F.2d 1468, 1472 (9th Cir. 1990) (affirming the dismissal of an appeal due to the “egregious circumstances” of procedural noncompliance that amounted to “bad faith” that delayed the case “three years”).

2. The district court did not abuse its discretion in affirming the bankruptcy sale. Several of Lewis’s objections to the sale hinge on Lewis’s alleged membership in the LLC. That question was not presented to the bankruptcy court and is not before us on appeal. Rather, Lewis filed a state court suit in 2021 to vindicate his alleged interest in the LLC. That suit is ongoing. We cannot say the district court abused its discretion for failing to find facts that were neither previously established nor presented for its review. *See Steam Press Holdings, Inc. v. Hawaii Teamsters*, 302 F.3d 998, 1005 (9th Cir. 2002) (stating “as a general rule courts of this circuit will not consider arguments on appeal that were not properly raised at the lower court level”).

Next, Lewis argues the bankruptcy court should have waited to authorize the sale until the state court decides Lewis’s claim of ownership over the property. However, Lewis, again, did not present this argument below. “[W]e are a court of review, not first view,” and decline to take up this waived argument. *Roth v. Foris Ventures, LLC*, 86 F.4th 832, 838 (9th Cir. 2023) (citation modified).

Moreover, Lewis’s argument that the bankruptcy sale is an improper sub rosa plan fails because the sale does not direct the disposition of the proceeds such that Lewis’s claim of interest in the LLC could be thwarted. *See In re Chrysler LLC*, 576 F.3d 108, 126 (2d Cir. 2009) (noting the concern of sub rosa plans revolve around actors trying to “bypass the requirements of Chapter 11 to cash out quickly at the

expense of other stakeholders”), *vacated as moot sub. nom. Indiana State Police Pension Tr. v. Chrysler LLC*, 558 U.S. 1087 (2009). Lewis does not contend the sale directs the disposition of proceeds or otherwise prejudices his alleged interest in the LLC.

3. Lastly, the district court did not commit clear error by affirming the bankruptcy court’s finding of good faith of the purchaser because there was nothing in the record to indicate anything other than good faith. *See In re Thomas*, 287 B.R. 782, 785 (9th Cir. BAP 2002) (noting a finding of good faith is a factual determination reviewed for clear error). First, Upchurch submitted a signed declaration representing the transaction was conducted at arm’s-length. Second, any decrease from the initially envisioned sale price is plausibly explained by Lewis’s attempts to thwart the sale.

JUDGMENT AFFIRMED.¹

¹ The court **DENIES** the LLC’s motion for sanctions, Dkt. 23, and **DENIES** as moot Lewis’s motion for judicial notice, Dkt. 29.