

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 29 2026

FOR THE NINTH CIRCUIT

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

EVAN AULD-SUSOTT, as Trustee for (1)  
Irrevocable Life Insurance Trust of John L.  
Susott & Kathryn C. Susott UAD 8/17/1988  
as Restated, Exempt Trust fbo Daniel C.  
Susott, & (2) Irrevocable Life Insurance  
Trust of John L. Susott & Kathryn C. Susott  
UAD 8/17/1988 as Restated; JOHN L.  
SUSOTT,

Plaintiffs - Appellees,

v.

LAURYN GALINDO; DANIEL C.  
SUSOTT,

Defendants - Appellants.

No. 25-5087

D.C. No.

1:20-cv-00270-LEK-RT

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Hawaii  
Leslie E. Kobayashi, District Judge, Presiding

Submitted June 23, 2026\*\*  
Honolulu, Hawaii

Before: N.R. SMITH, MILLER, and JOHNSTONE, Circuit Judges.

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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).

Lauryn Galindo and Daniel Susott appeal from the following orders of the district court: (1) the district court’s denial of their third motion to disqualify Judge Kobayashi based on bias; (2) the denial of their motion to void judgment pursuant to Federal Rule of Civil Procedure 60(b)(4); (3) the grant of prejudgment interest to the Appellees pursuant to Section 636-16 of the Hawaii Revised Statutes; and (4) the grant of attorneys’ fees to the Appellees pursuant to Section 607-14.5 of the Hawaii Revised Statutes. We have jurisdiction under 28 U.S.C. § 1291. We affirm.<sup>1</sup>

1. The district court did not abuse its discretion in denying the Appellants’ third motion to disqualify Judge Kobayashi based on her alleged “actual bias.” We have twice affirmed the district court’s denial of the Appellants’ previous motions to disqualify Judge Kobayashi for actual bias. We did not clearly err in our application of the actual bias standard in either of those cases; therefore, the law-of-the-case doctrine precludes consideration of the arguments that the Appellants present once again. *See Ingle v. Cir. City*, 408 F.3d 592, 594 (9th Cir. 2005) (“[A] court is generally precluded from reconsidering an issue previously decided by the same court, or a higher court in the identical case.” (citation and internal quotation marks omitted)); *see also Wilkins v. United States*, 163 F.4th 636, 645 (9th Cir. 2025). To the extent the Appellants argue that the district court’s denials of their

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<sup>1</sup> We grant the Appellants’ Motion for Judicial Notice of Portions of the Record for Previous Appeal No. 23-16216 (Dkt. 16), to which the Appellees did not object.

motions subsequent to our decisions prove Judge Kobayashi's bias, the Appellants fail to present any specific argument why that is so. We refuse to manufacture any such arguments on the Appellants' behalf. *See Indep. Towers of Washington v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003).

2. The district court did not err in denying the Appellants' motion to void judgment under Rule 60(b)(4). *See United States v. \$277,000.00 U.S. Currency*, 69 F.3d 1491, 1493 (9th Cir. 1995) (applying de novo review to the denial of a Rule 60(b)(4) motion). "Rule 60(b)(4) applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard." *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (2010). The Appellants' arguments—that the district court needed to have personal jurisdiction over Daniel Susott to appoint a constructive trustee over the property at issue and that his due process rights were violated when he was dismissed by the court and then purportedly divested of his ownership rights—have no merit. The district court did not need to have personal jurisdiction over Daniel Susott to impose the constructive trust, because the constructive trust is imposed against the transferee, Galindo, not Daniel Susott. *See Haw. Rev. Stat. § 651C-7(a)(3)(B)* (allowing "[a]ppointment of a receiver to take charge of the asset transferred or of other property of the transferee" (emphasis added)). Further, there was no violation of Daniel Susott's

due process rights. After dismissing him, the district court reverted title *back* to Daniel Susott and he was ordered to hold the property in trust, for the benefit of plaintiffs. Daniel Susott does not explain how his due process rights were violated through the imposition of this constructive trust. The district court therefore properly imposed the constructive trust against Galindo as the transferee and did not violate Daniel Susott’s due process rights.

3. The district court did not abuse its discretion in awarding prejudgment interest to the Appellees pursuant to Section 636-16 of the Hawaii Revised Statutes. Under this provision, “trial court[s] can award prejudgment interest for *any substantial delay* in the proceedings.” *See Cnty. of Hawaii v. C & J Coupe Family Ltd. P’ship*, 242 P.3d 1136, 1167 (Haw. 2010) (citation and internal quotation marks omitted). In previous litigation between the parties, the district court held that the Appellants fraudulently transferred the property at issue, and ordered the property to be returned to Daniel Susott. *Auld-Susott v. Galindo*, No. 1:16-cv-00450-LEK-RLP, 2019 WL 993620, at \*15–\*16 (D. Haw. Feb. 28, 2019), *aff’d*, 854 F. App’x 217 (9th Cir. 2021). Two days after judgment was entered in that case, the Appellants engaged in a second fraudulent transfer that effectively circumvented the enforcement of that judgment. *See Auld-Susott v. Galindo*, No. 1:16-cv-00450-LEK-RLP, 2019 WL 7116097, at \*1 (D. Haw. Dec. 23, 2019). The district court did not abuse its discretion in awarding prejudgment interest based on its finding that

“there was a substantial delay in [Appellants’] return of the property at issue in this case.”

4. The district court did not abuse its discretion in awarding attorneys’ fees pursuant to Section 607-14.5 of the Hawaii Revised Statutes. Under this provision, courts may impose “a reasonable sum for attorneys’ fees and costs” against a party to a civil action “upon a specific finding that all or a portion of the party’s claim or defense was frivolous.” Haw. Rev. Stat. § 607-14.5(a). “A trial court’s conclusion that a party’s claim or defense was made in good faith and was, therefore, not ‘frivolous’ within the meaning of [Haw. Rev. Stat.] § 607-14.5 presents mixed questions of fact and law, and is subject to review for clear error.” *Pub. Access Trails Hawai’i v. Haleakala Ranch Co.*, 526 P.3d 526, 546–47 (Haw. 2023) (citation omitted). The district court did not clearly err in determining that the defenses of adequate consideration and lack-of-creditor status were frivolous. Such defenses were previously litigated; the district court rejected those defenses and decided in the Appellees’ favor, and the judgment was affirmed by this court, *see Auld-Susott*, 854 F. App’x at 218–19, and later recognized as preclusive.

**AFFIRMED.**