

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 20 2018

FOR THE NINTH CIRCUIT

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

In re: ERIK BENHAM,

No. 16-56539

Debtor,

D.C. No. 2:15-cv-08472-VBF

ERIK BENHAM,

MEMORANDUM*

Appellant,

v.

DAVID R. HAGEN, Esquire, Chapter 7
Trustee,

Appellee.

Appeal from the United States District Court
for the Central District of California
Valerie Baker Fairbank, District Judge, Presiding

Submitted August 16, 2018**

Before: THOMAS, Chief Judge, and TROTT and SILVERMAN, Circuit Judges.

Erik Benham appeals pro se from the district court's judgment dismissing

* 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).

for lack of standing Benham’s appeal from a bankruptcy court order approving the Trustee’s Final Report. We have jurisdiction under 28 U.S.C. § 158(d). We review for clear error the factual finding of whether an appellant is a person aggrieved. *Duckor Spradling & Metzger v. Baum Trust (In re P.R.T.C., Inc.)*, 177 F.3d 774, 777 (9th Cir. 1999). We affirm.

The district court properly dismissed for lack of standing Benham’s appeal because Benham was not a “person aggrieved” by the order approving the Trustee’s Final Report. This is because Benham failed to show any reasonable likelihood that the claims he would have the trustee bring would yield any pecuniary benefit for himself. *See Fondiller v. Robertson (In re Fondiller)*, 707 F.2d 441, 442-43 (9th Cir. 1983) (a debtor carries the burden to “demonstrate that [he] was directly and adversely affected pecuniarily by the order of the bankruptcy court,” and “a hopelessly insolvent debtor does not have standing to appeal orders affecting the size of the estate”).

Benham’s motion to file a late reply brief (Docket Entry No. 22) is granted. The Clerk shall file the reply brief submitted at Docket Entry No. 22.

AFFIRMED.¹

¹ All pending motions are denied as moot.