

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 26 2017

FOR THE NINTH CIRCUIT

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

JUAN R. DURRUTHY; JUANA
DURRUTHY,

Plaintiffs-Appellants,

v.

MTC FINANCIAL, INC., DBA Trustee
Corps; et al.,

Defendants-Appellees.

No. 17-55512

D.C. No. 3:17-cv-00055-AJB-BGS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Anthony J. Battaglia, District Judge, Presiding

Submitted December 18, 2017**

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

Juan R. Durruthy and Juana Durruthy appeal pro se from the district court's judgment dismissing their action alleging federal claims for failure to pay the filing fee after denying their motion to proceed in forma pauperis. We have jurisdiction

* 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).

under 28 U.S.C. § 1291. We affirm.

Because the Durruthys have failed to address on appeal how the district court erred in dismissing their action, they have waived their challenge to the district court's dismissal for failure to pay the filing fee. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”).

AFFIRMED.