

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 19 2019

FOR THE NINTH CIRCUIT

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

KEITH TURNER,

Plaintiff-Appellant,

v.

BAYVIEW LOAN SERVICING, LLC; et  
al.,

Defendants-Appellees.

No. 18-55657

D.C. No. 2:17-cv-07521-PA-RAO

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Percy Anderson, District Judge, Presiding

Submitted March 12, 2019\*\*

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

Keith Turner appeals pro se from the district court's judgment dismissing his action alleging Fair Debt Collection Practices Act ("FDCPA") and state law claims arising out of foreclosure proceedings. We have jurisdiction under 28 U.S.C.

§ 1291. We review de novo a district court's dismissal under Federal Rule of Civil

---

\* 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).

Procedure 12(b)(6). *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1040 (9th Cir. 2011). We affirm.

The district court properly dismissed Turner’s FDCPA claim under 15 U.S.C. § 1692f(6) because Turner failed to allege facts sufficient to show that defendants sought to foreclose without having the present right to possession of the property through an enforceable security interest. *See* 15 U.S.C. § 1692f(6) (prohibiting the taking of any nonjudicial foreclosure action without a present right to possession of the property claimed as collateral); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (to avoid dismissal, “a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face” (citation and internal quotation marks omitted)).

The district court did not abuse its discretion in denying Turner’s motion to alter or amend judgment because Turner failed to establish any basis for such relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (standard of review and grounds for reconsideration under Fed. R. Civ. P. 59(e)).

We do not consider arguments raised for the first time on appeal, or matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

**AFFIRMED.**