

FILED

MAY 28 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In the Matter of: RODOLFO  
VELASQUEZ,

Debtor,

RODOLFO VELASQUEZ,

Appellant,

v.

DAVID BURCHARD, Chapter 13  
Trustee; et al.,

Appellees.

No. 06-17203

BAP No. NC-06-01150-SPaBu

MEMORANDUM\*

Appeal from the Ninth Circuit  
Bankruptcy Appellate Panel  
Smith, Pappas, and Bufford, Bankruptcy Judges, Presiding

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

LS/Research

Submitted May 20, 2008 \*\*

Before: PREGERSON, TASHIMA, and GOULD, Circuit Judges.

Rodolfo Velasquez appeals pro se from an order of the Ninth Circuit Bankruptcy Appellate Panel (“BAP”) affirming the bankruptcy court’s order dismissing his Chapter 13 petition, without prejudice, on the basis of bad faith under 11 U.S.C. § 1307(c). We have jurisdiction pursuant to 28 U.S.C. § 158(d). We review the decision of the BAP de novo, the bankruptcy court’s finding of bad faith for clear error, and the dismissal for an abuse of discretion. *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1291, 1222-23 (9th Cir. 1999). We affirm.

The bankruptcy court did not commit clear error in finding that Velasquez filed for bankruptcy in bad faith because the record shows that Velasquez filed the action to defeat a state court judgment, failed to disclose all of his assets, and lacked any financial need for the bankruptcy. *See id.* at 1224 (explaining that bad faith is determined by the totality of the circumstances, including whether the debtor filed his petition in an inequitable manner, omitted assets, and only intended to defeat state court litigation). Velasquez’s contention regarding amendment is

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\*\* The panel unanimously finds this case suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.

unavailing because even if he had been allowed to amend his schedules to include omitted assets, the totality of the circumstances would have supported the court's bad faith finding. *See id.*

Accordingly, the bankruptcy court did not abuse its discretion by dismissing the action. *See id.* (“bad faith is a ‘cause’ for dismissal under § 1307(c)”).

Contrary to Velasquez's contentions, the bankruptcy court did not err by failing to address his requests to reduce or discharge the debt to Appellees because there was no basis to continue the proceedings.

Velasquez's remaining contentions are unpersuasive.

**AFFIRMED.**