

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 21 2008

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

MAURICE D. YARBER; et al.,

Plaintiffs - Appellants,

v.

DAN ISHIKAWA; et al.,

Defendants - Appellees.

No. 07-15402

D.C. No. CV-06-06395-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Alsup, District Judge, Presiding

Submitted July 14, 2008**

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

This is an appeal from the district court's order denying appellants' motion to reconsider the district court's prior order dismissing their complaint for failure to state a claim.

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

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

This court previously denied appellant's motion to proceed in forma pauperis, and directed appellant (1) to pay the docketing and filing fees for this appeal; and (2) to show cause why the district court's orders should not be summarily affirmed.

After appellant initially failed to pay the filing and docketing fees, this court dismissed the appeal for failure to prosecute. Appellant has now paid the fees and responded to the court's order to show cause. Accordingly, the court grants appellant's motion to reinstate.

The Clerk is directed to file the motion to reinstate this appeal, received April 14, 2008, and the motion for a new briefing schedule, received March 20, 2008.

This court reviews the district court's order for abuse of discretion. *See McDonald v. Grace Church Seattle*, 457 F.3d 1079, 1081 (9th Cir. 2006).

We have reviewed the record, the appellants' responses to the order to show cause, and the opening brief, and we find that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

AFFIRMED.