UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6693

JP MORGAN CHASE BANK, N.A.,

Plaintiff - Appellee,

v.

ROBERT W. WAZNEY, a/k/a Robert William Wazney,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Henry M. Herlong, Jr., Senior District Judge. (3:18-cv-00921-HMH)

Submitted: August 23, 2018 Decided: August 28, 2018

Before DUNCAN and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Robert Wazney, Appellant Pro Se. Nicholas Andrew Charles, Sarah Beth Nielsen, B. Rush Smith, III, NELSON MULLINS RILEY & SCARBOROUGH, LLP, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Wazney appeals from the district court's order adopting the report and recommendation of the magistrate judge and remanding the underlying foreclosure proceeding back to state court. We dismiss the appeal. Remand orders are generally "not reviewable on appeal or otherwise." 28 U.S.C. § 1447(d) (2012). The Supreme Court has explained that the appellate restrictions of "§ 1447(d) must be read in pari materia with § 1447(c), so that only remands based on grounds specified in § 1447(c) *[i.e.*, lack of subject matter jurisdiction and defects in removal procedures] are immune from review under § 1447(d)." *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 127 (1995). Whether a remand order is reviewable is not based on a district court's explicit citation to § 1447(c); "[t]he bar of § 1447(d) applies to any order invoking substantively one of the grounds specified in § 1447(c)." *Borneman v. United States*, 213 F.3d 819, 824-25 (4th Cir. 2000).

Here, the district court dismissed for lack of subject matter jurisdiction, citing § 1447(c). Accordingly, we lack jurisdiction to review the merits of the district court's order. Thus, we grant JP Morgan Chase Bank's motion to dismiss the appeal. We deny Wazney's motions for a stay pending appeal and for summary judgment, and we dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

FILED: August 28, 2018

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J U D G M E N T

In accordance with the decision of this court, this appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

FILED: October 30, 2018

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ORDER

The court denies the petition for rehearing.

Entered at the direction of the panel: Judge Duncan, Judge Floyd, and Senior Judge Hamilton.

For the Court

/s/ Patricia S. Connor, Clerk