APPENDIX A

April 28, 2021, "Order" United States Court of Appeals for the Seventh Circuit

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 20, 2021*
Decided April 28, 2021

By the Court.

No. 20-3158

MARIO L. SIMS
Plaintiff-Appellant,

v.

BANK OF NEW YORK
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.

No. 3:20-cv-125 DRL

Damon R. Leichty,
Judge.

ORDER

Mario Sims agreed to pay John Tiffany for his home, but before he could finish the transaction, Tiffany defaulted on his home mortgage. When the Bank of New York foreclosed on that home, Sims filed for bankruptcy protection in order to stay the sale of Tiffany's home. But Sims was not a party to the mortgage, so the bankruptcy court lifted the stay and allowed the foreclosure. Sims appealed in district court, which denied relief. He now frivolously challenges several of the district court's rulings: he has either inadequately preserved those challenges or they lack any conceivable merit, so we affirm and impose a sanction.

Sims plotted to acquire Tiffany's home by promising to pay Tiffany more than Tiffany owed the Bank, expecting Tiffany to pay off his mortgage, and then after three

* We have agreed to decide this case without oral argument because the appeal is frivolous. FED. R. APP. P. 34(a)(2)(A).

years Tiffany would turn over the home to Sims. But Tiffany defaulted on his mortgage, and the Bank sued to foreclose on the home. *See Sims v. New Penn Fin. LLC*, 906 F.3d 678 (7th Cir. 2018). Sims still wanted the home, so he sued Tiffany and, as relevant to this appeal, filed for his own bankruptcy protection. *See Sims v. Tiffany*, 31 N.E.3d 36 (Ind. Ct. App. 2015). Sims listed the Bank as one of his secured creditors, claiming that he owed the Bank money for the home. The Bank responded that Sims was not a party to Tiffany's mortgage (or any debt to the Bank) and lacked funds to pay the mortgage anyway, so it moved for relief from the stay. *See* 11 U.S.C. § 1322(a)(2). The Trustee, for its part, responded that Sims's claim that he owed the Bank money was untimely. In March 2019 the bankruptcy court rejected Sims's claim that he owed the Bank money, denied Sims's last-minute request to postpone a trial on the Bank's request to lift the stay, and after the trial lifted the stay on the foreclosure.

About one year later, Sims unsuccessfully appealed the bankruptcy court's rulings in district court. He challenged the rejection of his claim that he owed the Bank money, argued that the bankruptcy judge should have recused himself because of racial bias, and asserted that the bankruptcy court wrongly handled the trial on the request to lift the stay. The district court ruled that Sims's appeal of the ruling rejecting his claim was untimely. *See* FED. R. BANKR. P. 8002(a)(1) (providing 14 days to appeal). It also decided that Sims had already received the relief on recusal to which he was entitled, and that his challenge to the ruling regarding the trial on the Bank's request to lift the stay failed on the merits and because he did not order transcripts related to the trial. The district court later denied, as coming too late, Sims's post-judgment motion to submit transcripts, but it invited him to renew the request on appeal.

Sims appealed, but our review is limited. Sims never paid for the transcripts from the bankruptcy court's proceedings, and he never made them part of the district-court record. Normally, we would review the bankruptcy court's legal rulings de novo, and its findings of fact for clear error. *In re Chicago Mgmt. Consulting Grp., Inc.*, 929 F.3d 803, 809 (7th Cir. 2019). Without transcripts, however, we have no basis to review the bankruptcy court's fact-based rulings and therefore leave them intact. *See* CIR. R. 30(b)(1); *Jaworski v. Master Hand Contractors, Inc.*, 882 F.3d 686, 690 (7th Cir. 2018). We review the district court's legal rulings de novo. *In re Sterling*, 93 F.3d 828, 832 (7th Cir. 2019).

On appeal, Sims first contests the district court's refusal to disturb the bankruptcy court's ruling sustaining the Trustee's objection to his claim as untimely. But, as the district court rightly concluded, Sims's appeal of that ruling was itself

unquestionably time-barred because he appealed the ruling a year after the bankruptcy court entered it, far outside the 14-day deadline. *See In re Morse Elec. Co.*, 805 F.2d 262, 264 (7th Cir. 1986) (ruling on claim is appealable when entered); FED. R. BANKR. P. 8002(a)(1).

Next, Sims frivolously attacks the district judge's handling of the recusal issue that he raised in the bankruptcy court. Sims alleged racial bias and moved to recuse the bankruptcy judge from overseeing an adversary proceeding. In response, that judge recused himself from *all* of Sims's cases. A different bankruptcy judge then took over this case and entered all orders after Sims filed his motion. The district court thus properly ruled that this recusal under 28 U.S.C. § 455(a) obviated any need for further relief.

Sims's next two arguments, both unsuccessful, concern the trial on the Bank's request to lift the stay. He contends that the district court incorrectly relied on the lack of trial transcripts in declining to review that decision. But the bankruptcy court issued its ruling "for reasons stated in open court," *see* FED. R. BANKR. P. 8009(a)(4), and Sims's challenge depends on the factual basis of that ruling. As we explained above, Sims ignored his obligation to submit "all evidence relevant to that finding or conclusion," and has not offered an excuse for his failure. Therefore, as also stated above, review is impossible. *In re Chicago Mgmt. Consulting Grp., Inc.*, 929 F.3d at 808.

Sims next argues that the district court should have ruled that the bankruptcy court wrongly denied his motion to delay the trial date, a decision that we review for abuse of discretion. *See Rainey v. Taylor*, 941 F.3d 243, 250 (7th Cir. 2019). But there is no reasonable argument about abuse of discretion. Sims filed his motion just two days before trial, seeking more discovery. He already had received more than one year to conduct his discovery, and he did not explain why that timeframe was insufficient. *See id.* at 249–50 (upholding the denial of a continuance requested hours before trial given litigant's "evasive" and "dilatory" conduct during litigation). So the bankruptcy court's denial of the motion is unassailable.

We conclude with a matter of judicial administration. Sims has a prolific history of vexatious litigation, including nearly two dozen federal cases and nearly two hundred state court suits. As recounted in the rulings resolving some of these cases, Sims often raises spurious charges attacking the integrity of the judges and the judicial process. He repeats that practice here of making allegations without a good faith basis in the law or the facts. *See Donelson v. Hardy*, 931 F.3d 565, 569 (7th Cir. 2019)

("[S]anctions issued under the court's inherent powers are justified if the [litigant] willfully abuses the judicial process or litigates in bad faith."). Citing adverse rulings but nothing else, he levels accusations of racial bias against the bankruptcy court, district court, and this court. But "adverse rulings are not evidence of judicial bias." *Trask v. Rodriguez*, 854 F.3d 941, 944 (7th Cir. 2017). Unfounded charges create frivolous litigation, which neither courts nor opposing parties should have to tolerate. It is "ground [for] sanctions and, if the offense recurs, an order closing the courthouse doors." *Homola v. McNamara*, 59 F.3d 647, 648 (7th Cir. 1995) (citing *Support Systems International, Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995)).

We therefore invite Bank of New York to submit an itemized and verified bill of costs and fees within 14 days of the entry of this order, to which Sims may object within 21 days of this order. FED. R. APP. P. 39. We further direct Sims, within 21 days of this order, to show cause why he should not be sanctioned with an order to pay any costs and fees that we deem reasonable, the non-payment of which will subject him to an order in accordance with *Mack* to return to him unfiled any papers that he presents for filing in a court of this circuit.

AFFIRMED

APPENDIX B

April 28, 2021, Order to Show Cause, United States Court of Appeals for the Seventh Circuit

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

FINAL JUDGMENT

April 28, 2021

By the Court:

No. 20-3158	MARIO L. SIMS, Plaintiff - Appellant v. BANK OF NEW YORK, Defendant - Appellee
Originating Case Information:	
District Court No: 3:20-cv-00125-DRL Northern District of Indiana, South Bend Division District Judge Damon R. Leichty	

The judgment of the District Court is **AFFIRMED**, with costs. We therefore invite Bank of New York to submit an itemized and verified bill of costs and fees within 14 days of the entry of this order, to which Sims may object within 21 days of this order. Fed. R. App. P. 39. We further direct Sims, within 21 days of this order, to show cause why he should not be sanctioned with an order to pay any costs and fees that we deem reasonable, the non-payment of which will subject him to an order in accordance with *Mack* to return to him unfiled any papers that he presents for filing in a court of this circuit..

The above is in accordance with the decision of this court entered on this date.

APPENDIX C

May 28, 2021, Order denying petition for rehearing and for rehearing en banc
United States Court of Appeals for the Seventh Circuit.

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

May 28, 2021

By the Court.

No. 20-3158

MARIO L. SIMS,
Plaintiff-Appellant,

v.

BANK OF NEW YORK,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.

No. 3:20-cv-125 DRL

Damon R. Leichty,
Judge.

ORDER

On consideration of the petition for rehearing and for rehearing en banc filed by Plaintiff-Appellant on May 10, 2021, no judge in active service has requested a vote on the petition for rehearing en banc, and the judges on the original panel have voted to deny rehearing.

Accordingly, the petition for rehearing is DENIED.

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

June 2, 2021

By the court.

No. 20-3158

MARIO L. SIMS
Plaintiff-Appellant,

v.

BANK OF NEW YORK
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.

No. 3:20-cv-125 DRL

Damon R. Leichty,
Judge.

ORDER

On April 28, 2021, we affirmed the district court's judgment in favor of the Defendant-Appellee, Bank of New York, explaining that the appeal of Plaintiff-Appellant Sims was frivolous. We invited Bank of New York to submit an itemized and verified bill of its costs and fees. We also ordered Sims to show cause why he should not be sanctioned with an order to pay any costs and fees we deemed reasonable, and we allowed Sims to respond to the Bank's bill of costs and fees. In its bill, the Bank has requested $0 in costs and $13,450.20 in attorneys' fees for responding to the frivolous appeal. Sims has not objected to the Bank's bill.

We grant the Bank's bill of costs. Sims responded to the show-cause order with an unpersuasive attack on our decision affirming the judgment, but he has not otherwise responded to the bill of costs. We find Bank of New York's fees for their work on this appeal to be reasonable under the circumstance and therefore order Sims to pay the Bank $13,450.20. *See Dal Pozzo v. Basic Mach. Co.*, 463 F.3d 609, 614 (7th Cir. 2006).

APPENDIX E

October 23, 2021, "Opinion and Order," U.S. District Court,
Northern District of Indiana, South Bend Division

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

MARIO LAMONT SIMS,

Appellant,

v.

BANK OF NEW YORK,

Appellee.

CAUSE NO. 3:20-cv-125 DRL

OPINION & ORDER

Mr. Mario Sims sought to stop the judicial sale of his real property as initiated by the Bank of New York Mellon by filing a Chapter 13 bankruptcy case. Proceeding *pro se*, he now appeals various decisions of the bankruptcy court arguing that (1) he was denied due process when the bankruptcy court held a hearing without notice to him, (2) the bankruptcy judge erred in not recusing, (3) the bankruptcy court erred in denying his motion to continue the trial, and (4) the bankruptcy court erred in granting the bank's motion to lift stay. The court affirms the bankruptcy court's decisions.

BACKGROUND

On August 9, 2005, John Tiffany (a non-party) obtained a loan in the amount of $120,000 from FMF Capital LLC [BD 173-3 at 4]. He executed an adjustable rate note in favor of FMF Capital LLC and a mortgage securing the payment of the note. The mortgage secured real property located at 23778 Grove Street, South Bend, Indiana 46628. FMF Capital LLC assigned the mortgage to the Bank of New York [BD 173-5 at 4].

In October 2008, Mr. Tiffany entered into a contract for the sale of real estate with Mr. Sims and his wife [BD 173-5 at 5]. Mr. Sims agreed to pay Mr. Tiffany $185,000 over three years for title to the Grove Street property [*Id.*].

On June 22, 2011, Mr. Tiffany filed a bankruptcy petition under Chapter 7 [*see* BD 173 ¶ 8]. In response, Mr. Sims initiated an adversary proceeding against Mr. Tiffany objecting to Mr. Tiffany's discharge of debt [*Id.* ¶ 9]. To settle the adversary proceeding, Mr. Tiffany transferred the Grove Street property to Mr. Sims by way of quitclaim deed dated March 13, 2012 [BD 173-5 at 13]. The adversary proceeding was dismissed.

On May 31, 2013, an entry of *in rem* judgment and decree of foreclosure was entered in favor of the Bank of New York in a foreclosure case it filed against Mr. Tiffany, Mr. Sims, and others [BD 173-10]. The mortgage on the Grove Street property was foreclosed, along with the equity of redemption of Mr. Tiffany, Mr. Sims, and others [*Id.*]. The property was to be sold at sheriff's sale to satisfy the debt.

On July 10, 2018, Mr. Sims filed a voluntary petition for bankruptcy under Chapter 13 [BD 1]. The sheriff's sale scheduled for July 12, 2018 was stayed as a result. The amount due the Bank of New York under the foreclosure judgment consists of $126,257.96, interest of $100,146.49, fees of $15,274.25, and escrow advances of $44,236.35 [BD 173-3 ¶ 15].

On January 18, 2019, Mr. Sims filed a proof of claim on behalf of the Bank of New York for $43,620. The Trustee objected to the claim as untimely because the last day for filing a non-governmental claim was September 18, 2018 [BD 75]. On February 4, the bankruptcy court scheduled a hearing for February 28, 2019 to address the Trustee's objection to Mr. Sims' claim [BD 89]. A certificate of mailing was filed acknowledging that the notice was sent via first class mail [BD 90]. Mr. Sims did not appear at the hearing. The bankruptcy court sustained the Trustee's objection to claim number 6 [BD 110].

On February 7, 2019, Judge Harry C. Dees, Jr., the presiding bankruptcy judge at the time, held a hearing to address several matters [BD 55, 58, 66, 93]. The following exchange occurred:

> THE COURT: Mr. Sims, I'll give you one more chance to argue, and I'll ask you to refrain from shouting at me.

> MR. SIMS: Shouting, Your Honor? I'm sorry.
>
> THE COURT: You were raising your voice excessively, yes.
>
> MR. SIMS: I'm sorry, Your Honor. Sometimes with African Americans, we're accused of shouting and being angry when, in fact, we don't intend that. I'm a pastor, this is the way I speak to my congregation.
>
> THE COURT: Well, I'm not your congregation.

[BD 94 at 21]. A couple weeks later Mr. Sims filed a motion to recuse Judge Dees, which wasn't filed in this underlying bankruptcy proceeding but rather a related adversary proceeding filed against the Trustee and others (not the Bank of New York), Case No. 19-03012.

On March 5, 2019, Judge Dees issued an order recusing himself from the case [BD 109]. The case was reassigned to Judge Robert E. Grant [BD 111].

After Mr. Sims' fourth amended chapter 13 plan was approved [BD 171], the Bank of New York filed an amended motion for relief from the automatic stay and abandonment of real property [BD 173]. The bankruptcy court scheduled a trial on the motion for relief, but two days before trial Mr. Sims filed a motion to continue it [BD 182]. He argued that he should receive additional information about the bank's intended witnesses and their testimony, and exhibits. [*Id.*]. The bankruptcy court denied the motion to continue because Mr. Sims "had the opportunity to conduct discovery concerning [the Bank of New York's] motion for relief from stay ever since that motion was filed in October of 2019" [BD 183].

The bankruptcy court held a trial on January 23, 2020 and granted the Bank of New York's motion for relief from stay and abandonment of the property to allow it to proceed with the foreclosure of the property [BD 184].

STANDARD

Under 28 U.S.C. § 158(a), federal district courts have jurisdiction to hear appeals from bankruptcy courts. Bankruptcy Rule 8013 provides that "[o]n an appeal the district court . . . may

affirm, modify, or reverse a bankruptcy judge's judgment, order, or decree or remand with instructions for further proceedings[.]" District courts apply a dual standard of review in bankruptcy appeals. The bankruptcy judge's findings of fact are reviewed for clear error, while conclusions of law are reviewed *de novo*. *In re Midway Airlines, Inc.*, 383 F.3d 663, 668 (7th Cir. 2004); *In re Smith*, 286 F.3d 461, 464-65 (7th Cir. 2002).

DISCUSSION

A. *Mr. Sims Did Not Timely Appeal from the Bankruptcy Court's Order Sustaining Trustee's Objection to Claim No. 6.*

The disposition of a creditor's claim in a bankruptcy is "final" for purposes of appeal. *In re Morse Electric Co.,* 805 F.2d 262, 264 (7th Cir. 1986). Absent an exception, a notice of appeal must be filed within 14 days after entry of the judgment, order, or decree being appealed. Fed. R. Bankr. P. 8002(a)(1). A district court doesn't have jurisdiction to hear an untimely appeal. *See In re Sykes*, 554 F. Appx. 527, 529 (7th Cir. 2014); *In the Matter of Maurice*, 69 F.3d 830, 832 (7th Cir. 1995).

Here, the bankruptcy court entered its order sustaining the Trustee's objection to claim no. 6 on March 5, 2019 [BD 110]. No appeal was filed by Mr. Sims until February 5, 2020—almost a full year after the bankruptcy court's order. Thus, the court lacks jurisdiction to review the bankruptcy court's order sustaining Trustee's objection to claim no. 6.

Because Mr. Sims' due process argument concerns the entry of this order, the court doesn't have jurisdiction to review his due process argument. He never addresses his delay in filing an appeal to the bankruptcy court's order. Accordingly, the court affirms the bankruptcy's court's order sustaining Trustee's objection to claim no. 6.

B. *The Bankruptcy Judge Recused Himself from the Case So There Was No Error for Failing to Recuse.*

Mr. Sims argues that the bankruptcy court erred by failing to grant his motion to recuse the bankruptcy judge. The Bank of New York correctly responds that Judge Dees, in fact, recused from

the proceeding though Mr. Sims' motion wasn't filed in this underlying bankruptcy case against the bank.

On February 27, 2019, Mr. Sim's filed a motion to recuse Judge Dees "from the above entitled matter[.]" ECF 4 at 48. That matter was an adversary proceeding against multiple defendants, but not including the Bank of New York. There is no motion to recuse on the docket of this underlying case. *See* ECF 2-1 at 1-21. Even so, Judge Dees recused himself from this case on March 5, 2019, roughly one week after Mr. Sim's motion to recuse was filed in the related proceeding. ECF 2-1 at 12. From the time Mr. Sims filed the motion to recuse (February 27, 2019) to Judge Dees' recusal (March 5, 2019), no orders were issued [*see* BD 2-1 at 12].

It thus is unclear then what Mr. Sims is appealing. Mr. Sims says the "[s]ubsequent legal actions that occurred involving misconduct of the Bank and its Attorney are rendered null and void by virtue of the Sec 455 violations in this case and therefore the grant of the banks' motion for relief from stay was improper" [ECF 4 at 13]. Judicial acts taken before a motion to recuse may not be later set aside unless a litigant shows actual impropriety or actual prejudice. *See Falconer v. Meehan*, 804 F.2d 72, 79 (7th Cir. 1986). Mr. Sims doesn't identify, or attempt to identify, any actual impropriety or prejudice. While actions taken by a recused judge after recusal is mandated under 28 U.S.C. § 455(a) can be set aside, *id.*, Judge Dees never issued any orders after Mr. Sims' filed his motion. Particularly, Judge Dees didn't issue the order granting the banks' motion for relief from stay. Judge Grant issued that order on January 24, 2020 [BD 184]. Mr. Sims makes no allegations of impartiality against Judge Grant. Thus, on this point, there was no error by the bankruptcy court.

C. *The Bankruptcy Court Didn't Abuse its Discretion by Denying the Motion to Continue Trial.*

Decisions concerning discovery, including motions to continue trial, are matters committed to the bankruptcy court's discretion. *Kalis v. Colgate-Palmolive Co.*, 231 F.3d 1049, 1056 (7th Cir. 2000); *Silberman v. Wigod*, 1990 U.S. App. LEXIS 15578, 18 (7th Cir. Sep. 4, 1990).

Here, the bankruptcy court denied Mr. Sims' motion to continue the trial on Bank of New York's motion for relief because it was filed two days before the scheduled trial. The motion for relief was filed on December 27, 2018 [BD 66]. The parties filed a report of their planning meeting that contained a discovery plan allowing for twenty interrogatories, limited requests for production, and two depositions [BD 82]. Mr. Sims had the opportunity to conduct discovery.

A trial on the bank's motion for relief was scheduled for January 23, 2020. Two days before this, Mr. Sims filed a motion to continue based on his purported need for a witness list, a summary of the expected testimony, any exhibits, and a description of the availability of a witness for a deposition [BD 182]. The bankruptcy court denied his motion the next day because "the debtor has had the opportunity to conduct discovery concerning the Bank of New York's motion for relief from stay ever since that motion was filed in October of 2019" [BD 183].

Contrary to Mr. Sims' argument, he was not denied an opportunity to conduct discovery. Both parties agreed on the limitations to discovery. His decision not to utilize the tools available to him is not the bankruptcy court's fault. Even more, if there was good cause to continue the trial, Mr. Sims should have moved far more in advance than two days before trial. The bankruptcy court thus did not abuse its discretion in denying Mr. Sims' motion to continue.

D. *The Bankruptcy Court Didn't Abuse its Discretion in Granting the Bank's Motion to Stay Relief.*

A grant of relief from an automatic stay is reviewed for an abuse of discretion. *Bartlett v. Fifth Third Bank*, 619 Fed. Appx. 525, 527 (7th Cir. 2015). Bankruptcy code § 362(d) provides for relief from the automatic stay "for cause, including the lack of adequate protection of an interest in property of such party in interest" and "with respect to a stay of an act against property under subsection (a) of this section, if— (A) the debtor does not have an equity in such property; and (B) such property is not necessary to an effective reorganization[.]"

continue to increase as the property is tied up in his bankruptcy case. Mr. Sims points the court to exhibit 2, a letter from the bank's loan servicer. Nowhere in the letter does the servicer say the bank's interest was not declining [*see* ECF 4 at 73]. In fact, the servicer advised that "interest, payments, credits, and other allowable charges may cause the loan's balance to vary daily" [*Id.*].

Furthermore, the record shows that Mr. Sims was not a borrower under the terms of the note and mortgage so he isn't obligated to make payments to the bank nor can the bank collect from him. In his schedule A/B, Mr. Sims listed the property value at $198,000. The bank says he lacks sufficient income to pay the debt based on his scheduled payment plan. Mr. Sims doesn't argue he has the funds to pay it. He also doesn't say how the property is necessary to an effective reorganization. *See In re Deeter*, 53 B.R. 623, 625 (N.D. Ind. Sept. 16, 1985) ("Property is necessary for an effective reorganization whenever it is necessary either in the operation of the business or in a plan, to further the interests of the estate through rehabilitation or liquidation.").

Thus, the bankruptcy court did not abuse its discretion in determining that the bank's interest is not adequately protected, that Mr. Sims has no equity in the property, and that the property is not necessary for an effective reorganization.

CONCLUSION

The court lacks jurisdiction to address Mr. Sims' appeal of the bankruptcy court's order sustaining the Trustee's objection to claim no. 6. The bankruptcy court didn't abuse its discretion in denying Mr. Sims' motion to continue trial and granting the bank's motion for relief from the stay. Judge Dees recused without ruling on motions after Mr. Sims made his request. Accordingly, the court AFFIRMS the bankruptcy court's decisions.

SO ORDERED.

October 23, 2020

s/ Damon R. Leichty
Judge, United States District Court

AO 450 (Rev. 01/09) Judgment in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Indiana

MARIO LAMONT SIMS, debtor

Appellant(s)

v. ***Civil Action No.*** ***3:20cv125***

Bankruptcy No. 18-31237

BANK OF NEW YORK, creditor

Appellee (s)

JUDGMENT IN A CIVIL ACTION

The court has ordered that *(check one):*

☐ the plaintiff _____ recover from the defendant _____ the amount of _____ _ dollars $_____, which includes prejudgment interest at the rate of _____% plus post-judgment interest at the rate of _____ % along with costs.

☐ the plaintiff recover nothing, the action is dismissed on the merits, and the defendant _____ recover costs from the plaintiff _____.

X Other: The decision of the US Bankruptcy Court is AFFIRMED

This action was *(check one):*

☐ tried to a jury with Judge _____ presiding, and the jury has rendered a verdict.

☐ tried by Judge _____ without a jury and the above decision was reached.

X decided by Judge Damon R Leichty on Appeal from Bankruptcy Court

DATE: 10/26/20 ROBERT TRGOVICH, CLERK OF COURT

by s/Monica Clawson
Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
I Certify that the foregoing is a true copy of the original on file in this court and cause.
GARY T. BELL, CLERK
By: s/JDarrah
Date: July 9, 2021

APPENDIX F

January 24, 2020, "Order Granting Motion," U.S. Bankruptcy Court,
Northern District of Indiana

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN THE MATTER OF:	)	CASE NO. 18-31237
	)	CHAPTER 13
MARIO LAMONT SIMS	)	REG/tk
	)	
	)	
Debtor(s)	)	

ORDER GRANTING MOTION

Dated on January 24, 2020

Trial with regard to the issues raised by The Bank of New York Mellon's amended motion for relief from stay and abandonment and Debtor's objection thereto was held at Fort Wayne, Indiana, on January 23, 2020, with Mario Sims, debtor, and David Bengs, counsel for movant, present.

Evidence submitted and arguments heard.

For the reasons stated in open court, the amended motion for relief from stay and abandonment is GRANTED. The Bank of New York Mellon is relieved of the automatic stay in order to continue the foreclosure upon Debtor's real estate upon which it holds a lien, 23778 Grove Street, and that property is abandoned.

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court