

APPENDIX

App. 1
NON-PUBLISHED
UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT

No. 21-12114

In re: ROBERT L WALKER, TAMIKO N PEELE,
Debtor.

ROBERT L WALKER AND TAMIKO N PEELE
Plaintiff- Appellant,
v.

K. DRAKE OZMENT, OZMENT LAW, PA, Defendants -
Appellees.

Appeal from the United States District Court for the Southern
District of Florida, Judge Aileen M Cannon, D.C. Docket No.
(9:21-cv-80537-AMC)

Non-Argument: Decided: September 27, 2022

Before JORDAN, NEWSOM, and LAGOA, Circuit Judges

App. 2

Affirmed by published opinion. Judge JORDAN, NEWSOM, and LAGOA wrote the opinion.

JUDGMENT

It is hereby ordered, adjudged, and decreed that the opinion issued on this date in this appeal is entered as the judgment of this Court.

Before JORDAN, NEWSOM, and LAGOA, Circuit Judges PER CURIAM:

Robert Walker and Tamiko Peele are Chapter 13 debtors proceeding pro se. They appeal a district-court order denying their motion for a “temporary injunction,”¹ a stay, and other relief. Because a denial of a stay is not appealable, we previously dismissed that part of the appeal. But we did not address whether we have jurisdiction over the rest of the appeal. We now hold that we have jurisdiction over the portion

App. 3

of the appeal that seeks a temporary injunction. We affirm the district court's order refusing that temporary injunction, and we deny several motions that Walker and Peele (hereinafter "debtors") have made in this Court.

The facts of the case are known to the parties, and we do not repeat them here except as necessary to decide the issues before us.

I

We address jurisdiction first. Our jurisdiction typically extends only to appeals from final orders, but we also have jurisdiction to hear appeals from interlocutory district-court orders refusing injunctions. 28 U.S.C. § 1292(a)(1). Debtors moved for a "temporary injunction," and that motion was denied. "Temporary injunction" may not be a familiar term of art, but we construe pro se filings liberally. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). It's clear to us—as it was to the district

App. 4

court—that debtors sought injunctive relief. We therefore regard the district court’s order denying their motion as an order refusing injunctive relief.

1 Whether Walker and Peele sought a preliminary injunction or a temporary restraining order is unclear.

Debtors’ appeal is not moot even though the bankruptcy court has dismissed their Chapter 13 case. Dismissal of a Chapter 13 case moots an appeal only if the dismissal makes it impossible to grant effectual relief. *Neidich v. Salas*, 783 F.3d 1215, 1216 (11th Cir. 2015). Thus, for instance, when a debtor appeals a deduction in his Chapter 13 plan, the dismissal of the underlying Chapter 13 case moots the debtor’s appeal—for there is no deduction in a Chapter 13 plan once the Chapter 13 case is dismissed. *Id.* But when a debtor’s appeal challenges a “collateral” aspect of a Chapter 13 case—say, when a debtor

App. 5

seeks sanctions against a creditor for flouting a stay-relief order—dismissal of that Chapter 13 case does not moot the appeal. See *In re Tucker*, 743 F. App'x 964, 967–68 (11th Cir. 2018). Debtors challenge collateral aspects of their Chapter 13 case. As best we can tell, debtors moved for three “temporary injunctions”:

1. one forcing defendants Ozment and Ozment Law—debtors’ counsel in the bankruptcy proceeding—to relinquish debtors’ property and records, notify debtors when that happens, provide them an opportunity to pursue their appeal, cease collection efforts, and return their money with interest;

2. one forcing several nonparties to cease paying debtors’ hazard insurance and tax obligation, cease taking payments from the debtors, and reissue debtors’ previous payments back to the debtors; and

App. 6

3. one forcing Ozment, Ozment Law, and several nonparties to cease disposing of debtors' assets and return debtors' property. At least some of these are collateral matters. Former clients are entitled to records from former counsel, for example, no matter how the suit for which they hired counsel plays out. The district court thus could, in theory, grant effectual relief on at least one of debtors' motions: It could order Ozment Law to turn over certain records. Debtors' appeal, therefore, isn't moot.

II

Still, the appeal fails. We generally reverse denials of preliminary injunctions only if the district court abused its discretion. *Delta Air Lines, Inc. v. Air Line Pilots Ass'n, Int'l*, 238 F.3d 1300, 1308 (11th Cir. 2001). But debtors have abandoned any claim that the district court abused its discretion when it denied their motion for a "temporary

App. 7

injunction.” An appellant abandons any claim not briefed before this Court, made in passing, or raised briefly without supporting arguments or authority. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014). Even pro se litigants abandon issues not raised on appeal. *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008). Here, debtors have not addressed whether the district court abused its discretion by denying their motion for injunctive relief. Their brief abounds in accusations, but it says little about why those accusations warrant the injunction they seek. The brief doesn’t even address the order denying their request for injunctive relief. Put simply, this Court has not been briefed on whether debtors deserve their sought-after injunction. Debtors have thus abandoned that claim.

App. 8

III

Debtors have also made several other motions before this Court. These include a motion for fees and expenditures and a motion for leave to file an unspecified document with excess pages Both these motions include language that might be construed as other motions. These motions are all denied. The motion for fees is denied because debtors haven't shown that this case falls within any of the three "narrowly defined circumstances [in which] federal courts have inherent power to assess attorney's fees." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45 (1991). That is, they haven't shown that their own litigation efforts have directly benefitted others, or that their opponents have willfully disobeyed a court order, or that an opposing party has acted in bad faith. *Id.* at 45–46. The motion to file an unspecified document with excess pages is denied because, well, it's unspecified. Without knowing what debtors

App. 9

wish to file, it'd be premature to grant a request to file it. The remaining motions are denied because they defy our order that debtors file "separate motions for each request" for relief.

AFFIRMED. Motions before this Court are **DENIED**.

**NON-PUBLISHED
UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT**

No. 21-10205

In re: **ROBERT L WALKER, TAMIKO N PEELE,**

Debtor.

ROBERT L WALKER AND TAMIKO N PEELE

Plaintiff- Appellant,

v.

BARRY S MITTELBERG, BARRY S MITTELBERG P.A.

Defendants - Appellees.

App. 10

Appeal from the United States District Court for the Southern
District of Florida, Judge William P Dimitreous, D.C. Docket
No. (9:21-cv-81366-WPD)

Non-Argument: Decided: October 25, 2022

Before JORDAN, NEWSOM, and LAGOA, Circuit Judges

Affirmed by published opinion. Judge JORDAN, NEWSOM,
and LAGOA wrote the opinion.

JUDGMENT

It is hereby ordered, adjudged, and decreed that the opinion
issued on this date in this appeal is entered as the judgment of
this Court.

Before JORDAN, NEWSOM, and LAGOA, Circuit Judges PER
CURIAM:

App. 11

Robert Walker and Tamiko Peele, Chapter 13 debtors proceeding pro se, appeal the district court's order affirming the bankruptcy court's orders granting Barry Mittelberg's motions to allow a late-filed claim and for relief from a stay. Their notices of appeal indicate that they also seek to challenge the district court's orders granting various filing extensions.

After Walker and Peale filed this appeal, the bankruptcy court dismissed their Chapter 13 case. We recently dismissed their separate appeal of the district court's denial of their motion to reconsider that Chapter 13 case's dismissal. *Walker v. U.S. Bank Nat'l Ass'n*, No. 21-13937, 2022 WL 5237915, at *1 (11th Cir. Oct. 6, 2022). We also recently affirmed the district court's denial of a temporary injunction against their attorneys in the bankruptcy proceeding. *In re Walker*, No. 21-12114, 2022 WL 4477259, at *1 (11th Cir. Sept. 27, 2022).

App. 12

We now deny as moot¹ Walker and Peale's appeal of orders related to Mittelberg—Walker's attorney in a previous personal-injury case. As we explained in our earlier decision, we lack jurisdiction if a case is moot—for example, because the dismissal of a Chapter 13 case makes it impossible to grant the prevailing party any effectual relief. *Id.* at *1 (citing *Neidich v. Salas*, 783 F.3d 1215, 1216 (11th Cir. 2015)). We can provide relief on collateral matters, but we can't change the completed bankruptcy plan. *Id.*

Here, this appeal is moot because the district court order that Walker and Peale challenge relates to Mittelberg's claim in the bankruptcy plan—it doesn't concern a collateral matter. To the extent any of the various grievances and requests for relief that Walker and Peele raise on appeal are collateral matters, those arguments and requests for relief are outside the scope of this appeal. 2 DISMISSED AS MOOT.

App. 13

We review jurisdictional issues de novo and can consider jurisdiction sua sponte. In re Donovan, 532 F.3d 1134, 1136 (11th Cir. 2008). 2 Walker and Peele also move for fees and costs and for judicial notice of related proceedings. We conclude that granting that relief would be inappropriate here. Accordingly, we deny those motions as moot.

NON-PUBLISHED
UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT

No. 21-10716

In re: ROBERT L WALKER, TAMIKO N PEELE,
Debtor.

ROBERT L WALKER AND TAMIKO N PEELE
Plaintiff- Appellant,
v.

ROBIN R WEINER, CHAPTER 13 TRUSTEE, BARRY S
MITTELBERG, etal
Defendants - Appellees.

App. 14

Appeal from the United States District Court for the Southern
District of Florida, Judge Aileen M Cannon D.C. Docket No.
(9:21-cv-80914-AMC)

Non-Argument: Decided: December 2, 2022

Before JORDAN, JILL PRYOR, and GRANT, Circuit Judges

Affirmed by published opinion. Judge JORDAN, JILL PRYOR,
and GRANT wrote the opinion.

Before JORDAN, JILL PRYOR, and GRANT, Circuit Judges

PER CURIAM:

This appeal is dismissed FOR LACK OF JURISDICTION.

Tamiko Peele and Robert Walker appeal from the district
court's order affirming several bankruptcy court orders and

App. 15

dismissing their consolidated appeal. To the extent that Appellants seek to challenge the bankruptcy court's June 18, 2021, order dismissing their Chapter 13 bankruptcy case, their notice of appeal to the district court were filed a month before the bankruptcy court issued the order and thus were not effective from that order. Thus, we lack jurisdiction over Appellants' appeal from the June 18, 2021, order. *See In re Gen. Coffee Corp.*, 758 F.2d 1406, 1408-09 (11th Cir. 1985) (noting that orders of the bankruptcy court are not generally directly appealable to this Court).

Additionally, to the extent that Appellants challenge various other bankruptcy case has been dismissed. *See Neidich v. Salas*, 783 F.3d 1215, 1216 (11th Cir. 2015) (“[T]he dismissal of a Chapter 13 case moots an appeal arising from the debtor’s bankruptcy proceedings.”). Thus, we lack

App. 16

jurisdiction over the appeal. *Christian Coal. Of Fla., Inc., v. United States*, 662 F 3d 1182, 1189 (11th Cir. 2011).

Any pending motions are DENIED as moot.

STAYING CASE PENDING APPEAL

UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF FLORIDA

WEST PALM BEACH DIVISION

No. 21-80914-CIV-CANNON

In re: ROBERT L WALKER, TAMIKO N PEELE,
Debtor.

ROBERT L WALKER AND TAMIKO N PEELE
Plaintiff- Appellant,
v.

UNITED PARCEL SERVICE, etal Defendants - Appellees.

App. 17

Appeal from the United States Bankruptcy Court for the
Southern District of Florida, Judge Erik P Kimball, D.C.

Docket No. (20-11431-EPK)

STAYED: November 29, 2021

**ORDER STATYING CASE PENDING APPEAL AND
ADMINISTRATIVELY CLOSING CASE**

Appellants filed an interlocutory appeal to the Eleventh Circuit [ECF No. 30] from the Certification and Order of Transfer to Magistrate Judge [ECF No.28]¹ “The filing of a notice of appeal is an event of jurisdictional significance---it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *Green Leaf Nursery v. El. Dupont De Nemours & Co.*, 341 F.3d 1292, 1309 (11th Cir. 2003) (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58

App. 18

(1982)). “When one aspect of a case is before the appellate court on interlocutory review, the district court is divested of jurisdiction over aspect of the case.” *Dayton Indep. Sch. V. U.S. Mineral Prods. Co.*, 906 F.2d 1059, 1063 (5th Cir. 1990) (citations and internal quotation marks omitted). “The district court has authority to proceed forward with portions of the case not related to the claims on appeal...[s]till, a district court might find it best to stay an entire case pending the resolution of a case [case dispositive or jurisdictional issue].” See *May v. Sheahan*, 226 F.3d 876, 880 n.2 (7th Cir. 200) (citing *Monfils v Taylor*, 165 F.3d 511, 518-19 (7th Cir. 1998)).

After reviewing the record, this Court finds that the most prudent course of action is to stay this case pending Appellants’ appeal.

Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

App. 19

1. This matter is **STAYED** pending resolution of Appellants' interlocutory appeal.

2. The Clerk shall **CLOSE** this case for administrative purpose only

The Order from which Appellants appeal is an Order by Magistrate Judge Matthewman assigning Magistrate Judge Reinhart as the paired magistrate judge following transfer to this Court from U.S. District Judge Singhal [ECF No.28]

3. Any scheduled hearings are **CANCELED**, any pending motions are **DENIED AS MOOT**, and all deadlines are **TERMINATED**.

4. This case may be reopened upon motion by any party upon completion of the interlocutory appeal

DONE AND ORDERED in chambers at Fort Pierce, this 29th day of November 2021.

