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1) **EXHIBIT A** – Unpublished Opinion of the Court Case 21-13426, Doc. 54-1 (14 pages);

2) **EXHIBIT B** – Unpublished Opinion of the Court Case 21-13429, Doc. 50-1 (14 pages);

3) **EXHIBIT C** – Order Dismissing Bankruptcy Appeal as Frivolous Nos. M.D.Fla. #3:20-cv-01047-TJC, M.D.Fla. #3:20-cv-01062-TJC, M.D.Fla. #3:20-cv-01065-TJC, and M.D.Fla. #3:20-cv-01075-TJC, Doc. 8 (6 pages);

4) **EXHIBIT D** – Order Striking Document as Unintelligible (*App. Doc. 6, Pgs. 6-7*) (2 pages);

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7) **EXHIBIT G** – Order Dismissing Notice of Appeal Regarding Order Granting Motions To Dismiss Dated July 21, 2020 (*App. Doc. 53, Pgs. 882-883*) (2 pages).

Total of 52 pages
including the Exhibit Cover Sheets









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1) **EXHIBIT A** – Unpublished Opinion of the Court Case 21-13426, Doc. 54-1 (14 pages);

[DO NOT PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 21-13426

Non-Argument Calendar

In re:
TAQUAN RAHSHE GULLETT-EL,

Debtor.

TAQUAN RAHSHE GULLETT-EL,

Plaintiff-Appellant,

versus

INTERNAL REVENUE SERVICE,
AMERICAN BAR ASSOCIATION,

Defendants- Appellees.

Appeals from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:20-cv-01075-TJC,
Bkcy. No. 3:20-bk-00618-JAF

No. 21-13429

Non-Argument Calendar

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Debtor.

TAQUAN RAHSHE GULLETT-EL,

Plaintiff-Appellant,

versus

INTERNAL REVENUE SERVICE,
AMERICAN BAR ASSOCIATION,

Defendants-Appellees.

Appeals from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:20-cv-01047-TJC,
Bkcy. No. 3:20-bk-00618-JAF

Before NEWSOM, BRANCH, and ANDERSON, Circuit Judges.

PER CURIAM:

Taquan Rahshe Gullett-El appeals from the district court's order (1) holding that his appeal from the bankruptcy court's dismissal of his adversary complaint was untimely and otherwise frivolous, and (2) denying his request for permission to proceed *in forma pauperis* ("IFP") on appeal. Gullett-El argues that he timely filed his administrative appeal from the bankruptcy court's adversary proceeding to the district court and that the district court erred in denying him IFP status on appeal. Additionally, he asserts that both the bankruptcy court and the district court made multiple errors in the disposition of his adversary complaint. After review, we conclude that we lack jurisdiction. Accordingly, the appeal is dismissed.

I. Background

Although this appeal arises out of a dismissal of two bankruptcy court appeals, a brief summary of events leading to that ruling is necessary for context.

In 2017, Gullett-El was convicted in the Central District of California of two counts of submitting false, fictious, or fraudulent claims to the Internal Revenue Service ("IRS"), and two counts of attempting to file a false lien or encumbrance against the property of government employees. *See United States v. Taquan-Rashe*, 752 F. App'x 531, 531 (9th Cir. 2019) (unpublished).

Thereafter, in 2020, while imprisoned for those crimes, Gullett-El, filed a *pro se* petition for Chapter 7 bankruptcy in the bankruptcy court for the Middle District of Florida. He alleged, among other types of debt, that he had judicial liens, statutory liens, and tax liens. And he listed as creditors, among others, the California Franchise Tax Board and the United States of America. On July 23, 2020, Gullett-El received a discharge from the bankruptcy court. The discharge notice explained generally that some debts are not dischargeable, including "debts for most taxes." The bankruptcy court closed the bankruptcy proceeding in September 2021.

In March 2020, prior to receiving the bankruptcy discharge, Gullett-El filed a *pro se* adversary complaint in the bankruptcy court against the IRS, the American Bar Association ("ABA"), and several

other defendants.[1] In the adversary complaint, he cited numerous international treaties and alleged that (1) the IRS had instituted an unlawful lien against him in 2010; (2) he was the victim of malicious prosecution and his convictions were unlawful and violated various international laws; (3) the California district court judge breached a "contract" that Gullett-El filed in his criminal case (which he contended created a binding contract between himself and the district court judge over various matters); (4) the Federal Bureau of Prisons attempted to force him via threats and extortion to enter into a contract setting up a schedule of payments for the allegedly unlawful $400 special assessment imposed as part of his criminal sentence; (5) he was entitled to a writ of habeas corpus from the bankruptcy court; (6) he was entitled to billions in damages from the "United States Federal Corporation" and its privies; (7) he was entitled to specific performance of the "contract" he filed in his criminal case; and (8) he sought to invoke the jurisdiction of the international court of criminal justice and the international criminal court because he was a "non-immigrant alien" and he was subject to genocide, war crimes, crimes against humanity, and the denial of procedural justice by the United States,

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[1] The Federal Rules of Bankruptcy Procedure provide that certain bankruptcy related proceedings are "adversary proceedings," including a proceeding for money damages, and a proceeding "to determine the dischargeability of a debt." *See* Fed. R. Bank. P. 7001. "[A]n adversary proceeding in the bankruptcy court and the companion bankruptcy case are two distinct proceedings." *In re Morris*, 950 F.2d 1531, 1534 (11th Cir. 1992).

citing various international laws, treaties, and conventions. As relief, he requested the bankruptcy court order: (1) specific performance of the "contract" in his criminal case; (2) discharge of the IRS's allegedly unlawful tax lien, the $100,000 assessment owed to State of California, and the $400 special assessment imposed as part of his sentence; (3) his immediate discharge from unlawful detainment; and (4) reparations, restitution, and damages related to the unlawful convictions.

In response, the United States moved to dismiss the adversary proceeding for lack of service, lack of subject matter jurisdiction, and because the complaint was an impermissible shotgun pleading. Similarly, the ABA moved to dismiss the complaint, arguing that it was a shotgun pleading and alternatively because it alleged no injuries caused by the ABA. Gullett-El opposed the motions to dismiss.

On July 21, 2020 (the "July 21 order"), the bankruptcy court granted the motions to dismiss and dismissed Gullett-El's adversary complaint. As an initial matter, the bankruptcy court concluded that Gullett-El failed to state a claim concerning his request for release from prison and for damages based on his convictions, and it dismissed these claims with prejudice. Next, it determined that Gullett-El failed to allege a legal or factual basis concerning the dischargeability of his state or federal tax debts, but it granted him leave to amend his adversary complaint as to those claims within 30 days.

Instead of filing an amended adversary complaint, however, Gullett-El filed a notice of appeal in the bankruptcy court. In the notice of appeal, he asserted that "[d]ue to Defendants' mail tampering/obstruction/delay/hindering /withholding," he did not receive notice of the dismissal order, and that this delay constituted "excusable neglect and good cause" for an extension of time to appeal, citing various provisions of Federal Rule of Appellate Procedure 4. Meanwhile, Gullett-El filed an identical notice of appeal with the district court seeking to appeal the bankruptcy court's dismissal of the adversary complaint. The district court docketed the appeal as Case No. 3:20-cv-01075.

With regard to the notice of appeal filed in the bankruptcy court, the bankruptcy court dismissed it as untimely because it was not filed within 14 days of the entry of the order dismissing the adversary complaint as required by the bankruptcy rules. Gullett-El appealed the bankruptcy court's order dismissing his notice of appeal as untimely to the district court. This appeal was docketed in the district court as Case No. 3:20-cv-01047.

On September 20, 2021, in a single order, the district court held that both the appeal from the dismissal of the notice of appeal as untimely and the appeal from the dismissal of the adversary complaint were frivolous. Specifically, as to the bankruptcy court's dismissal of the notice of appeal as untimely, the district court concluded that "the record includes no information upon which the Court could find the decision as to [the] untimeliness [of the appeal of the order dismissing the adversary complaint] to be

erroneous," even under the prison mailbox rule. Furthermore, because the appeal was untimely, the district court concluded that it "need not consider Gullett-El's appeal of the [bankruptcy court's] order dismissing his adversary complaint." Nevertheless, the district court noted that even if it considered the merits of his appeal from the dismissal of the adversary complaint, the appeal would still be frivolous because the bankruptcy court (1) concluded correctly that it lacked jurisdiction over Gullett-El's claims seeking discharge from prison and damages from his convictions, and (2) granted Gullett-El leave to amend his claim for dischargeability of the tax debts, and a dismissal with leave to amend is not final and appealable.

Thereafter, Gullett-El filed a motion to proceed on appeal IFP in both cases. The district court denied the motions in a single order, concluding that any appeal would be frivolous for the reasons stated in its prior order.

Gullett-El appealed to this Court the district court's order concluding that the appeals were frivolous and its order denying his motions to proceed on appeal IFP.[2] Gullet also moved for IFP status on appeal in this Court, and a judge of this Court granted his IFP motion.

II. Discussion

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[2] These appeals were initially docketed as two separate cases (case nos. 21-13426 and 21-13429) and were later consolidated.

As a threshold matter, we must consider whether we have jurisdiction over this case. *See In re Trusted Net Media Holdings, LLC*, 550 F.3d 1035, 1042 (11th Cir. 2008) ("[C]ourts have an independent obligation to determine whether subject-matter jurisdiction exists, even if no party raises the issue, and if the court determines that subject matter jurisdiction is lacking, it must dismiss the entire case." (quotations omitted)).

Under Article III of the United States Constitution, a federal court's jurisdiction is limited to active "[c]ases" and "[c]ontroversies." U.S. Const., art. III, § 2. An "actual controversy" must exist throughout all stages of the litigation. *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 90–91 (2013). "A case becomes moot . . . when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Id.* at 91 (quotations omitted). In considering whether a case is moot, we "look at the events at the present time, not at the time the complaint was filed or when the federal order on review was issued." *Dow Jones & Co. v. Kaye*, 256 F.3d 1251, 1254 (11th Cir. 2001). "When events subsequent to the commencement of a lawsuit create a situation in which the court can no longer give the plaintiff meaningful relief, the case is moot and must be dismissed." *Fla. Ass'n of Rehab. Facilities, Inc. v. State of Fla. Dep't of Health & Rehab. Servs.*, 225 F.3d 1208, 1217 (11th Cir. 2000).

As an initial matter, we note that the district court's denial of Gullett-El's motion for leave to proceed IFP on appeal is not an appealable order. *See* Fed. R. App. P. 24(a)(5) & advisory

committee notes (1967 Adoption) (noting that Rule 24(a)(5) "establishes a subsequent motion in the court of appeals, rather than an appeal from the order of denial . . . as the proper procedure for calling in question the correctness of the action of the district court"); *see also Gomez v. United States*, 245 F.2d 346, 347 (5th Cir. 1957) (indicating that "[a]n application for leave to proceed [IFP on appeal] is addressed to the sound discretion of the court, and an order denying such an application is not a final order from which an appeal will lie").[3] Regardless, because we subsequently granted Gullett-El IFP status on appeal, this issue is rendered moot.

Turning to the substantive issues on appeal, even assuming that Gullett-El's notice of appeal from the dismissal of the adversary complaint was timely,[4] meaningful relief is not available to Gullett-El. In a Chapter 7 bankruptcy proceeding, an order of

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[3] *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (holding that decisions of the former Fifth Circuit issued prior to the close of business on September 30, 1981, are binding in the Eleventh Circuit).

[4] Adversary proceedings incorporate Fed. R. Civ. P. 58, which requires a court to set out a judgment in a separate document. Fed. R. Civ. P. 58; Fed. R. Bankr. P. 7058. Thus, in adversary proceedings, a judgment is entered for purposes of filing a notice of appeal at the earliest of when the judgment is set out in a separate document or once 150 days have run from the entry of the order. Fed. R. Bankr. P. 8002(a)(5)(ii). The bankruptcy court's order dismissing the adversary complaint was dated July 21, 2020, and it was entered on the bankruptcy docket on July 22. But the bankruptcy court failed to issue a separate judgment as required by Rule 58. Thus, Gullett-El had 150 days to file his notice of appeal, such that his notice of appeal from August 19, 2020, was timely. *See* Fed. R. Bankr. P. 8002(a)(5)(ii).

discharge is a final order marking the end of the adjudication of claims against the bankruptcy estate. *See In re McLean*, 794 F.3d 1313, 1322 (11th Cir. 2015). Here, two days after the bankruptcy court dismissed Gullett-El's adversary complaint, it issued him a Chapter 7 discharge, and it later closed the bankruptcy case. Gullett-El's challenge to the dismissal of the adversary complaint was rendered moot by the bankruptcy court's discharge order and closing of his bankruptcy case. *See In re Morris*, 950 F.2d 1531, 1534 (11th Cir. 1992). Specifically, although "[a]n adversary proceeding in the bankruptcy court and the companion bankruptcy case are two distinct proceedings," we have noted that "the dismissal of a bankruptcy case normally results in the dismissal of related proceedings because federal jurisdiction is premised upon the nexus between the underlying bankruptcy case and the related proceedings." *Id.* (citing *In re Smith*, 866 F.2d 576, 580 (3d Cir. 1989)); *see also In re Stardust Inn, Inc.*, 70 B.R. 888, 890 (Bankr. E.D. Pa. 1987) ("As a general rule, the dismissal of a bankruptcy case should result in the dismissal of all remaining adversary proceedings.").[5] In the adversary proceeding, Gullett-El sought a

[5] This general rule of dismissal is not without exception, however, because "nothing in the statute governing jurisdiction granted to the bankruptcy courts prohibits the continuance of federal jurisdiction over an adversary proceeding which arose in or was related to a bankruptcy case following dismissal of the underlying bankruptcy case." *In re Morris*, 950 F.2d at 1534. We have identified certain factors that a court should consider in determining whether discretionary jurisdiction over an adversary proceeding should be retained following the dismissal of the related bankruptcy proceeding: "(1) judicial economy; (2) fairness and convenience to the litigants; and (3) the

declaration that certain debts were dischargeable in the related bankruptcy proceeding. The order of discharge, however, marked the end of the claims against the bankruptcy estate and the bankruptcy proceeding is closed. In other words, any ruling as to the dischargeability of those debts was rendered moot by Gullett-El's discharge and the closing of his bankruptcy case.

Gullett-El also sought relief from his convictions and damages related to the allegedly wrongful convictions.[6] But such relief is not available in bankruptcy proceedings. Rather, a motion to vacate sentence under 28 U.S.C. § 2255 is the exclusive procedure for a federal prisoner to collaterally attack his sentence, and such motions must be filed in the district where the defendant was convicted and sentenced—in this case the United States District Court for the Central District of California. *See* 28 U.S.C. § 2255(a); *Amodeo v. FCC Coleman—Low Warden*, 984 F.3d 992, 997 (11th Cir. 2021). Thus, we lack jurisdiction to grant the requested relief.

Accordingly, Gullett-El's appeal is dismissed for lack of jurisdiction.

DISMISSED.

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degree of difficulty of the related legal issues involved." *Id.* at 1535. None of these factors weigh in favor of the court's discretionary jurisdiction in this case.

[6] We note that, since filing this appeal, Gullett-El has been released from prison.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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July 07, 2023

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 21-13426-JJ ; 21-13429 -JJ
Case Style: Taquan Gullett-El v. Internal Revenue Service, et al
District Court Docket No: 3:20-cv-01075-TJC
Secondary Case Number: 3:20-bk-00618-JAF

All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing are available on the Court's website. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

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OPIN-1 Ntc of Issuance of Opinion

2) **EXHIBIT B** – Unpublished Opinion of the Court Case 21-13429, Doc. 50-1 (14 pages);

[DO NOT PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 21-13426

Non-Argument Calendar

In re:
TAQUAN RAHSHE GULLETT-EL,

Debtor.

TAQUAN RAHSHE GULLETT-EL,

Plaintiff-Appellant,

versus

INTERNAL REVENUE SERVICE,
AMERICAN BAR ASSOCIATION,

Defendants- Appellees.

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Plaintiff-Appellant,

versus

INTERNAL REVENUE SERVICE,
AMERICAN BAR ASSOCIATION,

Defendants-Appellees.

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for the Middle District of Florida
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Before NEWSOM, BRANCH, and ANDERSON, Circuit Judges.

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Taquan Rahshe Gullett-El appeals from the district court's order (1) holding that his appeal from the bankruptcy court's dismissal of his adversary complaint was untimely and otherwise frivolous, and (2) denying his request for permission to proceed *in forma pauperis* ("IFP") on appeal. Gullett-El argues that he timely filed his administrative appeal from the bankruptcy court's adversary proceeding to the district court and that the district court erred in denying him IFP status on appeal. Additionally, he asserts that both the bankruptcy court and the district court made multiple errors in the disposition of his adversary complaint. After review, we conclude that we lack jurisdiction. Accordingly, the appeal is dismissed.

I. Background

Although this appeal arises out of a dismissal of two bankruptcy court appeals, a brief summary of events leading to that ruling is necessary for context.

In 2017, Gullett-El was convicted in the Central District of California of two counts of submitting false, fictious, or fraudulent claims to the Internal Revenue Service ("IRS"), and two counts of attempting to file a false lien or encumbrance against the property of government employees. *See United States v. Taquan-Rashe*, 752 F. App'x 531, 531 (9th Cir. 2019) (unpublished).

Thereafter, in 2020, while imprisoned for those crimes, Gullett-El, filed a *pro se* petition for Chapter 7 bankruptcy in the bankruptcy court for the Middle District of Florida. He alleged, among other types of debt, that he had judicial liens, statutory liens, and tax liens. And he listed as creditors, among others, the California Franchise Tax Board and the United States of America. On July 23, 2020, Gullett-El received a discharge from the bankruptcy court. The discharge notice explained generally that some debts are not dischargeable, including "debts for most taxes." The bankruptcy court closed the bankruptcy proceeding in September 2021.

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In response, the United States moved to dismiss the adversary proceeding for lack of service, lack of subject matter jurisdiction, and because the complaint was an impermissible shotgun pleading. Similarly, the ABA moved to dismiss the complaint, arguing that it was a shotgun pleading and alternatively because it alleged no injuries caused by the ABA. Gullett-El opposed the motions to dismiss.

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Instead of filing an amended adversary complaint, however, Gullett-El filed a notice of appeal in the bankruptcy court. In the notice of appeal, he asserted that "[d]ue to Defendants' mail tampering/obstruction/delay/hindering /withholding," he did not receive notice of the dismissal order, and that this delay constituted "excusable neglect and good cause" for an extension of time to appeal, citing various provisions of Federal Rule of Appellate Procedure 4. Meanwhile, Gullett-El filed an identical notice of appeal with the district court seeking to appeal the bankruptcy court's dismissal of the adversary complaint. The district court docketed the appeal as Case No. 3:20-cv-01075.

With regard to the notice of appeal filed in the bankruptcy court, the bankruptcy court dismissed it as untimely because it was not filed within 14 days of the entry of the order dismissing the adversary complaint as required by the bankruptcy rules. Gullett-El appealed the bankruptcy court's order dismissing his notice of appeal as untimely to the district court. This appeal was docketed in the district court as Case No. 3:20-cv-01047.

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erroneous," even under the prison mailbox rule. Furthermore, because the appeal was untimely, the district court concluded that it "need not consider Gullett-El's appeal of the [bankruptcy court's] order dismissing his adversary complaint." Nevertheless, the district court noted that even if it considered the merits of his appeal from the dismissal of the adversary complaint, the appeal would still be frivolous because the bankruptcy court (1) concluded correctly that it lacked jurisdiction over Gullett-El's claims seeking discharge from prison and damages from his convictions, and (2) granted Gullett-El leave to amend his claim for dischargeability of the tax debts, and a dismissal with leave to amend is not final and appealable.

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II. Discussion

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[2] These appeals were initially docketed as two separate cases (case nos. 21-13426 and 21-13429) and were later consolidated.

As a threshold matter, we must consider whether we have jurisdiction over this case. *See In re Trusted Net Media Holdings, LLC*, 550 F.3d 1035, 1042 (11th Cir. 2008) ("[C]ourts have an independent obligation to determine whether subject-matter jurisdiction exists, even if no party raises the issue, and if the court determines that subject matter jurisdiction is lacking, it must dismiss the entire case." (quotations omitted)).

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As an initial matter, we note that the district court's denial of Gullett-El's motion for leave to proceed IFP on appeal is not an appealable order. *See* Fed. R. App. P. 24(a)(5) & advisory

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[3] *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (holding that decisions of the former Fifth Circuit issued prior to the close of business on September 30, 1981, are binding in the Eleventh Circuit).

[4] Adversary proceedings incorporate Fed. R. Civ. P. 58, which requires a court to set out a judgment in a separate document. Fed. R. Civ. P. 58; Fed. R. Bankr. P. 7058. Thus, in adversary proceedings, a judgment is entered for purposes of filing a notice of appeal at the earliest of when the judgment is set out in a separate document or once 150 days have run from the entry of the order. Fed. R. Bankr. P. 8002(a)(5)(ii). The bankruptcy court's order dismissing the adversary complaint was dated July 21, 2020, and it was entered on the bankruptcy docket on July 22. But the bankruptcy court failed to issue a separate judgment as required by Rule 58. Thus, Gullett-El had 150 days to file his notice of appeal, such that his notice of appeal from August 19, 2020, was timely. *See* Fed. R. Bankr. P. 8002(a)(5)(ii).

discharge is a final order marking the end of the adjudication of claims against the bankruptcy estate. *See In re McLean*, 794 F.3d 1313, 1322 (11th Cir. 2015). Here, two days after the bankruptcy court dismissed Gullett-El's adversary complaint, it issued him a Chapter 7 discharge, and it later closed the bankruptcy case. Gullett-El's challenge to the dismissal of the adversary complaint was rendered moot by the bankruptcy court's discharge order and closing of his bankruptcy case. *See In re Morris*, 950 F.2d 1531, 1534 (11th Cir. 1992). Specifically, although "[a]n adversary proceeding in the bankruptcy court and the companion bankruptcy case are two distinct proceedings," we have noted that "the dismissal of a bankruptcy case normally results in the dismissal of related proceedings because federal jurisdiction is premised upon the nexus between the underlying bankruptcy case and the related proceedings." *Id.* (citing *In re Smith*, 866 F.2d 576, 580 (3d Cir. 1989)); *see also In re Stardust Inn, Inc.*, 70 B.R. 888, 890 (Bankr. E.D. Pa. 1987) ("As a general rule, the dismissal of a bankruptcy case should result in the dismissal of all remaining adversary proceedings.").[5] In the adversary proceeding, Gullett-El sought a

[5] This general rule of dismissal is not without exception, however, because "nothing in the statute governing jurisdiction granted to the bankruptcy courts prohibits the continuance of federal jurisdiction over an adversary proceeding which arose in or was related to a bankruptcy case following dismissal of the underlying bankruptcy case." *In re Morris*, 950 F.2d at 1534. We have identified certain factors that a court should consider in determining whether discretionary jurisdiction over an adversary proceeding should be retained following the dismissal of the related bankruptcy proceeding: "(1) judicial economy; (2) fairness and convenience to the litigants; and (3) the

declaration that certain debts were dischargeable in the related bankruptcy proceeding. The order of discharge, however, marked the end of the claims against the bankruptcy estate and the bankruptcy proceeding is closed. In other words, any ruling as to the dischargeability of those debts was rendered moot by Gullett-El's discharge and the closing of his bankruptcy case.

Gullett-El also sought relief from his convictions and damages related to the allegedly wrongful convictions.[6] But such relief is not available in bankruptcy proceedings. Rather, a motion to vacate sentence under 28 U.S.C. § 2255 is the exclusive procedure for a federal prisoner to collaterally attack his sentence, and such motions must be filed in the district where the defendant was convicted and sentenced—in this case the United States District Court for the Central District of California. *See* 28 U.S.C. § 2255(a); *Amodeo v. FCC Coleman—Low Warden*, 984 F.3d 992, 997 (11th Cir. 2021). Thus, we lack jurisdiction to grant the requested relief.

Accordingly, Gullett-El's appeal is dismissed for lack of jurisdiction.

DISMISSED.

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degree of difficulty of the related legal issues involved." *Id.* at 1535. None of these factors weigh in favor of the court's discretionary jurisdiction in this case.

[6] We note that, since filing this appeal, Gullett-El has been released from prison.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

July 07, 2023

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 21-13426-JJ ; 21-13429 -JJ
Case Style: Taquan Gullett-El v. Internal Revenue Service, et al
District Court Docket No: 3:20-cv-01075-TJC
Secondary Case Number: 3:20-bk-00618-JAF

All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing are available on the Court's website. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

OPIN-1 Ntc of Issuance of Opinion

3) **EXHIBIT C** – Order Dismissing Bankruptcy Appeal as Frivolous
Nos. M.D.Fla. #3:20-cv-01047-TJC, M.D.Fla. #3:20-cv-01062-TJC, M.D.Fla. #3:20-cv-01065-TJC, and M.D.Fla. #3:20-cv-01075-TJC, Doc. 8 (6 pages);

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re
TAQUAN RAHSHE GULLETT-EL,

Debtor. Bankruptcy Case No. 3:20-bk-618-JAF

TAQUAN RAHSHE GULLETT-EL,

Appellant,

v. Case No. 3:20-cv-1047-TJC

INTERNAL REVENUE SERVICE,
AMERICAN BAR ASSOCIATION,

Appellees.

TAQUAN RAHSHE GULLETT-EL,

Appellant,

v. Case No. 3:20-cv-1062-TJC

INTERNAL REVENUE SERVICE,
AMERICAN BAR ASSOCIATION,

Appellees.

TAQUAN RAHSHE GULLETT-EL,

Appellant,

v. Case No. 3:20-cv-1065-TJC

INTERNAL REVENUE SERVICE,
AMERICAN BAR ASSOCIATION,

Appellees.

TAQUAN RAHSHE GULLETT-EL,

Appellant,

v. Case No. 3:20-cv-1075-TJC

INTERNAL REVENUE SERVICE, AMERICAN BAR ASSOCIATION,

Appellees.

ORDER[1]

These four bankruptcy appeals all stem from a voluntary Chapter 7 case filed in February 2020 by pro se debtor/appellant Taquan Rahshe Gullett-El, who, at the time, was a federal prisoner.[2] On March 2, 2020, the debtor filed a 49-page handwritten pro se adversary complaint naming the Internal Revenue Service ("IRS"), the American Bar Association ("ABA"), and eighteen other state and federal private and government agencies and entities. The complaint sought an order discharging three state and federal tax debts and assessments

[1] Unless otherwise noted, the documents referenced herein are included in the record on appeal filed in Case No. 3:20-cv-1047-TJC at Doc. 6.

[2] After Taquan Rahshe Gullett-El and his mother repeatedly filed frivolous and vexatious complaints stemming from their criminal arrests and prosecutions, the undersigned enjoined them from initiating any action or matter in the district court without prior approval. See In re Taquan Rahshe Gullett-El, et al., Case No. 3:17-mc-20-TJC-JBT (Doc. 1). The Court does not view the filing of the Chapter 7 bankruptcy petition, the adversary complaint, or these appeals as being violative of that injunction.

totalling $174,831, ordering the debtor's immediate release from federal prison, and granting "reparations and restitution" for damages in the amount of $373,110,656,400 arising out of his allegedly wrongful criminal convictions.

On March 11, 2020, the debtor filed a 21-page handwritten single-spaced document in his adversary proceeding titled "Letter Rogatory for International Judicial Assistance and Application for Ex. Rel, Action/Humanitarian Intervention." Finding the document to be unintelligible, on March 24, 2020, the bankruptcy court struck it. On April 2, 2020, Gullett-El filed an appeal of that order (Case No. 3:20-cv-1065-TJC).

Both the IRS and the ABA moved to dismiss the adversary complaint. And they both sought a stay of discovery pending decision on their motions to dismiss. On June 8, 2020, the bankruptcy court granted the motion to stay discovery. On June 19, 2020, Gullett-El filed an appeal of that order (Case No. 3:20-cv-1062-TJC).

On July 21, 2020 the bankruptcy court ruled on the IRS's and ABA's motions to dismiss, dismissing the claims seeking discharge from federal custody and the debtor's claims for damages, but granting the debtor leave to file an amended complaint as to the tax debts. On August 19, 2020, Gullett-El filed an appeal of that order (Case No. 3:20-cv-1075-TJC).

On September 3, 2020, the bankruptcy court dismissed the August 19, 2020 notice of appeal as untimely. On September 14, 2020, Gullett-El filed an

appeal of that order (Case No. 3:20-cv-1047-TJC).

In each of the four appeals, Gullett-El is seeking leave to proceed in forma pauperis. Even if the financial criteria are satisfied, a court must dismiss an appeal filed in forma pauperis if at any time the court determines the appeal is "frivolous or malicious" or that it "fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2)(B)(i)-(ii). "An appeal is frivolous under section 1915(e) 'when it lacks an arguable basis either in law or in fact.'" In re Evans, No. 3:06cv547/MCR/EMT, 2007 WL 1430264, at *1 (N.D. Fla. May 9, 2007) (quoting Neitzke v. Williams, 490 U.S. 319, 325 (1989)).

The Court cannot identify any "arguable basis either in law or in fact" raised by any of Gullett-El's appeals. Neitzke, 490 U.S. at 325. The order striking his unintelligible filing (Case No. 3:20-cv-1065) and the order staying discovery (Case No. 3:20-cv-1062) are not appealable final orders and there is no basis to appeal them on an interlocutory basis. See, e.g., Ritzen Grp., Inc. v. Jackson Masonry, LLC, 140 S. Ct. 582, 586 (2020) ("Orders in bankruptcy cases qualify as 'final' when they definitively dispose of discrete disputes within the overarching bankruptcy case.") (citation omitted). Nor did Gullett-El seek leave to appeal those orders on an interlocutory basis. See 28 U.S.C. § 158(a)(3). And there is no applicable exception that would permit the Court to treat them as appealable orders. See generally In re Transbrasil S.A. Linhas Aereas, No. 20-12238, ___ F. App'x ___, 2021 WL 3028768, at *5 (11th Cir. July

19, 2021) (discussing exceptions to the final judgment rule); Sec. and Exch. Comm. v. Torchia, 922 F.3d 1307, 1315 (11th Cir. 2019) (discussing collateral order doctrine). As for his appeal of the order granting the motions to dismiss (Case No. 3:20-cv-1075) and his appeal of the order dismissing his appeal of that order as untimely (Case No. 3:20-cv-1047), the record includes no information upon which the Court could find the decision as to untimeliness to be erroneous.[3] The appeal of that order (Case No. 3:20-cv-1047) is frivolous within the meaning of 28 U.S.C. § 1915(e). Because it is untimely, the Court need not consider Gullett-El's appeal of the order dismissing his adversary complaint (Case No. 3:20-cv-1075).[4]

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[3] The appeal was untimely even under the bankruptcy court's mailbox rule, Fed. R. Bankr. P. 8002(c).

[4] Even if the Court did consider Gullett-El's appeal of the order to dismiss on the merits, the outcome would be the same. The bankruptcy court committed no error in finding that it had no subject matter jurisdiction over Gullett-El's frivolous claims seeking release from federal prison and reparations for damages allegedly resulting from his criminal convictions. As for his claim for relief from the tax debts, the bankruptcy court gave Gullett-El leave to amend that claim within 30 days (provided he not name unnecessary parties and that he properly serve process on the tax creditors). Thus, independent of the untimeliness, the appeal of the order of dismissal is frivolous within the meaning of 28 U.S.C. §1915(e) and there is no basis to grant leave to appeal in forma pauperis. See, e.g., Briehler v. City of Miami, 926 F.2d 1001, 1003 (11th Cir. 1991) (explaining that "a dismissal with leave to amend is not final and appealable").

Accordingly, it is hereby

ORDERED:

Debtor/appellant Taquan Rahshe Gullett-El's motions to proceed in forma pauperis in each of these cases are denied. These four appeals are dismissed as frivolous. The Clerk shall terminate any pending motions and close the files.

DONE AND ORDERED in Jacksonville, Florida this 20th day of September, 2021.

Timothy J. Corrigan
TIMOTHY J. CORRIGAN
United States District Judge

s.
Copies:

Honorable Jerry A. Funk
United States Bankruptcy Judge

Counsel of record

Pro se appellant

4) **EXHIBIT D** – Order Striking Document as Unintelligible (*App. Doc. 6, Pgs. 6-7*) (2 pages);

ORDERED.

Dated: March 24, 2020

Jerry A. Funk
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
www.flmb.uscourts.gov

In re:

Taquan Rashe Gullett-El,

Debtor.
_____/

Chapter 7

Case No.: 3:20-bk-618-JAF

Taquan Rashe Gullett-El,

v.

United States of America, et al.,

Defendants.
_____/

Adv. No. 3:20-ap-30-JAF

ORDER STRIKING DOCUMENT AS UNINTELLIGIBLE

This proceeding came before the Court upon a document filed by the Debtor, which he titled "Letter Rogatory for International Judicial Assistance and Application for Ex. Rel, Action/Humanitarian Intervention" (the "Document") (Doc. 4) The Document is 21 pages, handwritten, single spaced, and unintelligible. The Court cannot determine from reviewing the Document what relief the Debtor, who identifies himself as a "Political Prisoner of War for National Liberation from Colonialism," seeks. Upon the foregoing, it is

ORDERED:

The Document is stricken as unintelligible.

Clerk's Office to Serve

5) <u>EXHIBIT E</u> – Order Granting Motion To Stay Discovery (*App. Doc. 4, Pgs. 10-11*) (2 pages);

ORDERED.

Dated: June 08, 2020

Jerry A. Funk
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
www.flmb.uscourts.gov

In re:

TAQUAN RASHE GULLETT-EL,

Case No.: 3:20-bk-618-JAF
Chapter 7

Debtor.
_____/

TAQUAN RASHE GULLETT-EL,

Adv. No.: 3:20-ap-30-JAF

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.
_____/

ORDER GRANTING MOTION TO STAY DISCOVERY

After considering the United States of America's Motion to Stay Discovery (Doc. 35) and without a hearing, it is **ORDERED:**

1. The motion is granted.

2. All discovery and deadlines in this case are stayed pending the resolution of the United States of America's Motion to Dismiss (Doc. 13) or until further order of the Court.

Attorney Collette B. Cunningham is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.

6) **EXHIBIT F** – Order Granting Motion To Dismiss Adversary Proceeding (*App. Doc. 1, Pgs. 1-5*) (5 pages);

ORDERED.

Dated: July 21, 2020

Jerry A. Funk
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

IN RE:

TAQUAN RASHE GULLETT-EL,

Debtor.
_____/

Chapter 13
Case No. 3:20-bk-0618-JAF

TAQUAN RASHE GULLETT-EL,

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.
_____/

Adv. Pro. No. 3:20-ap-0030-JAF

ORDER GRANTING MOTIONS TO DISMISS

This proceeding is before the Court on two Motions to Dismiss, filed by Defendants INTERNAL REVENUE SERVICE (the "IRS") and AMERICAN BAR ASSOCIATION (the "ABA"). (Docs. 13 & 39). Plaintiff TAQUAN RASHE GULLETT-EL ("Debtor") filed a pro se response in opposition to each motion. (Docs. 26 & 43). For the reasons set forth herein, the Court grants Defendants' motions as set forth below.

App. 1

Background

In February 2020, Debtor filed a pro se voluntary petition under Chapter 7 of the Bankruptcy Code. In April 2020, following the meeting of creditors, the Chapter 7 trustee reported this is a no-asset/no-distribution case. Debtor is an inmate at Coleman Federal Correctional Institution in Sumter County, Florida. In March 2020, Debtor filed the instant pro se adversary complaint. The complaint is a 49-page handwritten document, with additional attachments. (Doc. 1).

In the complaint, Debtor requests the following relief: a) an order discharging three debts (described below); b) an order discharging Debtor from federal prison and granting his immediate release; and c) an order granting "reparations and restitution" for damages caused by the "United State Federal Corporation," which is a reference to the federal government. (Doc. 1 at 46). The three debts for which Debtor seeks discharge are an IRS tax debt in the amount of $74,431.00 and two California state tax assessments in the amount of $100,000.00 and $400.00, respectively.

Debtor's damages claim is based entirely on Debtor's interpretation of various sources of "public" international law (treaty law and international customary law).[1] Debtor claims the federal government violated public international law by investigating, convicting, and imprisoning him. Importantly, Debtor cites no domestic source of law pertinent to either his damages claim or his tax-debt dischargeability claim.

The IRS's motion to dismiss contends it has not been served with process, sovereign immunity bars Debtor's claims, and the complaint is a frivolous "shotgun" pleading. The ABA's

[1] Debtor's discussion of international law is, of course, frivolous. For what little relevance it may have, he seeks to invoke the jurisdiction of the International Court of Justice ("ICJ") and the International Criminal Court ("ICC"). Debtor has no standing before the ICJ because he is a natural person, not a member-state of the United Nations. Further, setting aside the ICC's lack of jurisdiction over American nationals, no allegations fall within the substantive purview of the ICC or within the territorial jurisdiction of a state-party to the ICC.

App. 2

104

motion argues the complaint does not allege wrongful conduct by the ABA, and the complaint is a frivolous "shotgun" pleading. (Doc. 39).

Analysis

The core question is whether and to what extent Debtor has stated a valid claim. Under Rule 12(b)(6), made applicable here by Bankruptcy Rule 7012, a defendant may challenge the sufficiency of the allegations in the complaint. Fed. R. Civ. P. 12(b)(6). In ruling on such a motion, the Court must accept all allegations as true and construe them in a light most favorable to the plaintiff. McCone v. Pitney Bowes, Inc., 582 F. App'x 798, 799-800 (11th Cir. 2014). The complaint must "state a claim to relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). "A claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Id.

Further, "[c]ourts have the inherent authority to dismiss a complaint as frivolous." Gullett-El v. Corrigan, 2017 WL 10861313, at *4 (M.D. Fla. Sept. 20, 2017). "A case may be dismissed as frivolous if it relies on meritless legal theories or facts that are clearly baseless." Id. "Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out [their jurisdictional] functions." Id.

Here, it is clear Debtor has not stated a facially plausible claim concerning his request for discharge from prison or his request for damages incurred as a result of his criminal conviction. The core allegations underlying these requests constitute a collateral attack on his conviction, and this Court has no subject-matter jurisdiction to decide such issues. Further, the claim for damages is wholly unsupported by any facts or law upon which relief may be granted by this Court. It is also clear that no allegations supporting these claims could be alleged by Debtor. Thus, the Court will dismiss, with prejudice, the claims concerning Debtor's incarceration and purported damages.

App. 3

These frivolous claims concerning Debtor's criminal conviction are not new. In a 2017 opinion (cited above), United States District Judge Corrigan discussed the many civil suits Debtor has filed in a variety of courts against a multitude of federal and state officials. Gullett-El, at *1. The complaint at issue in that opinion "name[d] as defendants 182 federal, state, and local agencies, their employees, and judges, including the undersigned, and other private persons and entities." Id. The district court went on to recount Debtor's lengthy history of filing frivolous complaints. The court stated that, "even under the liberal standard of review afforded pro se litigants, this case is no more meritorious than Plaintiffs' prior filings." Id. at *4. "Rather, it is vexatious, patently frivolous, and due to be dismissed with prejudice." Id. The same remains true with Debtor's instant pleadings. The district court permanently enjoined Debtor from any further filings in both the Middle District of Florida and Florida's Fourth Judicial Circuit. The court stated these injunctions "are in no way intended to restrict other judges' authority to impose additional sanctions as necessary." Id. at *6.

Having said that, Debtor's claim concerning dischargeability of the state and federal tax debts is a different matter. While Debtor failed to state any factual or legal basis upon which the Court could plausibly determine the tax debts are dischargeable, the Court will allow Debtor one opportunity to amend his complaint in order to state such a claim. If Debtor fails to state such a claim, the Court will dismiss this adversary action with prejudice. Additionally, Debtor shall properly serve process on the respective tax creditors and, should Debtor fail to do so, the Court will dismiss this adversary action with prejudice.

Accordingly, it is hereby ORDERED as follows:

1. The IRS's motion to dismiss (Doc. 13) is GRANTED.

2. The ABA's motion to dismiss (Doc. 39) is GRANTED.

3. Debtor's damages claim and his claim for discharge from federal custody are hereby DISMISSED WITH PREJUDICE, as to all defendants named in the complaint.

4. Debtor's claims concerning the dischargeability of the tax debts are hereby DISMISSED WITHOUT PREJUDICE, as to all defendants named in the complaint.

5. Debtor may, within thirty (30) days following the date of this Order, file an amended complaint validly stating a claim to determine the dischargeability of the tax debts. Failure to file such an amended complaint within the allowed thirty (30) days will result in dismissal of this adversary proceeding with prejudice.

6. If Debtor files an amended complaint that fails to state a claim upon which relief can be granted, the Court will dismiss the amended complaint and all remaining claims with prejudice.

7. If Debtor files an amended complaint, Debtor shall obtain valid service of process on the respective tax creditors in accordance with applicable law. Failure to do so in a timely manner will result in dismissal of this adversary proceeding with prejudice.

8. Debtor shall not name any unnecessary parties as defendants in this adversary proceeding.

7) **EXHIBIT G** – Order Dismissing Notice of Appeal Regarding Order Granting Motions To Dismiss Dated July 21, 2020 (*App. Doc. 53, Pgs. 882-883*) (2 pages).

ORDERED.

Dated: September 03, 2020

Jerry A. Funk
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

IN RE:

TAQUAN RASHE GULLETT-EL, Case No. 3:20-bk-0618-JAF

Debtor. /

Chapter 7

TAQUAN RASHE GULLETT-EL,

Plaintiff, Adv. Pro. No. 3:20-ap-0030-JAF

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants. /

ORDER DISMISSING NOTICE OF APPEAL REGARDING ORDER GRANTING MOTIONS TO DISMISS DATED JULY 21, 2020

On August 19, 2020, a Notice of Appeal regarding Order Granting Motions to Dismiss Dated July 21, 2020 was filed (Doc. 61). The Court will dismiss the Notice of Appeal because it was not timely filed.

App. 882

Federal Rule of Bankruptcy Procedure 8002(a) provides that a notice of appeal must be filed with the clerk within 14 days of the date of the entry of the order appealed from. The deadline for the Plaintiff to file a notice of appeal was August 4, 2020. The Notice of Appeal was filed on August 19, 2020, fifteen days after the deadline. Upon the foregoing, it is

ORDERED:

The Notice of Appeal regarding Order Granting Motions to Dismiss is dismissed.

Clerk's Office to Serve.