FILED
United States Court of Appeals
Tenth Circuit

October 20, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

LORENZO LUCIANO LOPEZ,

Appellant,

v.

LON A. JENKINS, Chapter 13 Trustee, and AUNTI TUT TRUST,

Appellees.

No. 26-4021
(BAP No. UT-25-002)
(Bankruptcy Appellate Panel)

ORDER AND JUDGMENT*

Before **MATHESON**, **McHUGH**, and **FEDERICO**, Circuit Judges.**

When a debtor files for bankruptcy, collection activity on that debtor's assets is automatically stayed under 11 U.S.C. § 362(a) to preserve the bankruptcy estate for later distribution. A party with an interest in the

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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Federal Rule of Appellate Procedure 32.1 and Tenth Circuit Rule 32.1.

** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

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debtor's property may seek relief from the automatic stay under 11 U.S.C. § 362(d). Also, "at any time" during the life of a chapter 13 bankruptcy case, the debtor may move to voluntarily dismiss their case under 11 U.S.C. § 1307(b).

In the chapter 13 case before us, a bankruptcy court was presented with dueling motions for relief from the automatic stay under § 362(d) and for voluntary dismissal under § 1307(b). The court addressed and granted the motion for relief from the stay first (Stay Relief Order), and then it dismissed the bankruptcy petition under § 1307(b) that same day. Debtor-Appellant Lorenzo Lopez objects to that sequence. He contends that his motion for voluntary dismissal required immediate and absolute dismissal of his case, and he requests that we vacate the Stay Relief Order as improperly granted.

We doubt that Lopez's pending § 1307(b) motion barred the court from issuing the Stay Relief Order. But we need not reach that issue because Lopez failed to appeal the Stay Relief Order to this court, and we have no independent power to vacate it. We dismiss his appeal for lack of jurisdiction.

I

In July 2013, Jonathan Darger executed a secured promissory note with the Appellee, Auntie Tut Trust. Darger is not a party to this case, but

his actions and interests appear closely tied with those of Appellant-Debtor Lopez. The promissory note pledged monthly payments from Darger to Auntie Tut and was secured by Darger's real property, located in Herriman, Utah (Property).

Following what Auntie Tut describes as "repeated payment defaults," Auntie Tut scheduled a foreclosure sale of the Property, to take place on January 30, 2024. Resp. Br. at 6. Over the next eleven months, Darger and Lopez engaged in a scheme to avoid foreclosure through the bankruptcy process.

The scheme worked as follows. Darger would wait until Auntie Tut scheduled a foreclosure sale. The day before the sale, Darger would file for bankruptcy. Section 362(a) of the bankruptcy code would then operate to stay the foreclosure proceedings. *See* 11 U.S.C. § 362(a). Darger would be protected from foreclosure on the Property for several months, but he would decline to meaningfully engage with the bankruptcy process. Several months later, the bankruptcy court would dismiss Darger's petition for failure to file necessary documents. The stay would be lifted, and Auntie Tut would be free to schedule a new foreclosure sale, thus restarting the process.

Darger pursued this scheme for nearly a year. First, he filed for chapter 13 bankruptcy himself. When his repeat filings presumably

triggered a provision of the bankruptcy code that would have barred operation of the automatic stay, Darger transferred the Property to Lopez. *See* 11 U.S.C. § 362(c). Lopez then filed for bankruptcy, triggering the automatic stay anew.

The scheme was disrupted when Lopez filed a bankruptcy petition on December 30, 2024. One day after Lopez filed that petition, Auntie Tut filed a motion for relief from stay under 11 U.S.C. § 362(d).

A day before the bankruptcy court was scheduled to hear arguments on Auntie Tut's motion for relief from stay, Lopez filed an ex parte motion to dismiss his chapter 13 petition under 11 U.S.C. § 1307(b). Lopez then filed an objection to Auntie Tut's motion for relief from stay, arguing that the bankruptcy court lacked jurisdiction to hear that motion because Lopez had filed his § 1307(b) motion.

Lopez's objection notwithstanding, the court held its scheduled hearing on Auntie Tut's motion for relief from stay on January 14, 2025. That same day, the court entered its Stay Relief Order granting Auntie Tut's motion and terminating the automatic stay as to the Property. The order included a provision granting in rem relief under 11 U.S.C. § 362(d)(4). That provision barred future application of the automatic stay to acts against the Property, such as foreclosure, for the next two years, regardless of who owned the Property.

The court then issued an order dismissing the case under § 1307(b) (Dismissal Order). The order dismissed the case with prejudice and imposed a filing restriction that barred Lopez from filing another bankruptcy petition for 180 days under 11 U.S.C. § 109(g)(2).

Auntie Tut completed the foreclosure sale on January 24, 2025.

On January 28, Lopez filed a notice of appeal to the Tenth Circuit Bankruptcy Appellate Panel (BAP). The notice stated that Lopez intended to appeal the Stay Relief Order and the Dismissal Order. The BAP then issued an order construing Lopez's notice of appeal as two separate appeals: one appeal of the Stay Relief Order (UT-25-1) and one appeal of the Dismissal Order (UT-25-2). The BAP dismissed the appeal of the Stay Relief Order as moot on August 7, 2025. It issued a separate opinion affirming the bankruptcy court's Dismissal Order on February 3, 2026.

Lopez then appealed only the BAP decision regarding the Dismissal Order. Lopez's notice of appeal to this court states that he is appealing the BAP's affirmance of the Dismissal Order, but it does not reference the Stay Relief Order or the BAP's review of that order. Likewise, Lopez's Opening Brief acknowledges that his appeals to the BAP were bifurcated, but it states that the present appeal "arises from BAP No. UT-25-002" (i.e., the Dismissal Order Appeal) and states only that Lopez challenges "the BAP's final decision in UT-25-002." Op. Br. at 5.

II

Our jurisdiction is limited by the scope of a litigant's notice of appeal. *See* Fed. R. App. P. 3(c)(1)(B) (notices of appeal must "designate the judgment—or the appealable order—from which the appeal is taken"); *Utah Vapor Business Association, Inc. v. Utah*, 189 F.4th 1032, 1036 (10th Cir. 2026) (holding that the Rule 3(c)(1)(B) is "jurisdictional and not waivable"). We may not typically review an order or an issue unless it is designated in the notice of appeal. *Short v. Billings County*, 138 F.4th 1072, 1076 n.4 (8th Cir. 2025) (declining to review denial of motion to dismiss when notice of appeal failed to name that ruling).

The merger rule presents a notable exception to this general rule. Under the merger rule, we treat any appeal of a final judgment as impliedly including "all prior non final orders and all rulings which produced the judgment." *McBride v. CITGO Petroleum Corporation*, 281 F.3d 1099, 1104 (10th Cir. 2002) (citation omitted); Fed. R. App. P. 3(c)(7) (scope of appeal includes orders that merged into the final judgment). But the merger rule does not allow for merger of one final judgment into a separate final judgment. *Cf. Utah Vapor*, 189 F.4th at 1037 (merger rule does not merge one interlocutory order into separate interlocutory order); 16A Catherine T. Struve, Charles Alan Wright, & Arthur R. Miller, FEDERAL PRACTICE AND PROCEDURE § 3949.4 (5th ed. 2026) ("[I]f the district court previously

entered a proper partial final judgment . . . as to some claims . . . and no appeal was taken from that prior judgment, an appeal from the later entry of final judgment as to the remaining claims . . . will not bring up for review the prior partial final judgment.”).

Here, the BAP’s dismissal of the Stay Relief Order appeal and its affirmance of the Dismissal Order appeal are separate final judgments in separate appeals that cannot be merged. Because the orders cannot be merged, Lopez needed to also file a timely notice of appeal from the BAP’s Stay Relief Order. *See* Fed. R. App. P. 4(a)(1)(A), 6(b)(1). He failed to do so and thereby waived any right to appeal that order to this court.

Because Lopez does not appeal the BAP’s dismissal of the Stay Relief Order, we are not empowered to independently review it as part of this appeal. *JGR, Inc. v. Thomasville Furniture Industries, Inc.*, 550 F.3d 529, 533 (6th Cir. 2008) (“[A] court of appeals has jurisdiction only over the areas of a judgment specified in the notice of appeal as being appealed.” (citing *Smith v. Barry*, 502 U.S. 244, 248 (1992))); *see also* 28 U.S.C. § 158(d) (direct appeal of bankruptcy court decision to federal court of appeals permitted only via certificate of appealability).

Nor are we empowered to grant vacatur of the Stay Relief Order, which is the primary relief that Lopez requests. Our authority to grant relief is generally limited to the decisions and issues that are appealed. *See*

JGR, Inc., 550 F.3d at 533. (holding that court could vacate damages award under review but could not vacate separate damages award stemming from same case when separate award was not appealed). This is true even when the appealed and non-appealed rulings address similar issues. *Id.* (damages award for "loss of business value" reviewable; refusal to award "lost profits" not reviewable).

Lopez argues that our authority to review the Dismissal Order gives us a jurisdictional basis to vacate the Stay Relief Order. According to Lopez, the bankruptcy court was required to grant his motion to dismiss immediately, at which point it was divested of any authority to issue the Stay Relief Order. Given this, he argues, our review of the Dismissal Order could reach the Stay Relief Order as a collateral consequence.

Lopez is incorrect. Even if we agreed that § 1307(b) required the bankruptcy court to dismiss the case immediately, the bankruptcy court would have retained jurisdiction over Auntie Tut's motion for relief from stay as a "core proceeding." Bankruptcy courts are empowered to hear and enter final judgments in "all core proceedings arising under title 11 or arising in or related to a case under title 11." 28 U.S.C. § 157(b)(1); *Stern v. Marshall*, 564 U.S. 462, 474 (2011). Core proceedings jurisdiction can survive dismissal of the underlying bankruptcy case, including voluntary dismissal under § 1307(b). *In re Johnson*, 575 F.3d 1079, 1082–84 (10th Cir.

2009) (affirming bankruptcy court's post-dismissal jurisdiction over stay-violation proceeding under § 362(k)(1)); *In re Porges*, 44 F.3d 159, 161, 164–65 (2d. Cir. 1995) (affirming entry of money judgment against debtor after debtor's bankruptcy petition dismissed under § 1307(b)); *In re Fricker*, 131 B.R. 932, 938 (Bankr. E. D. Pa. 1991) (holding it "inconceivable" that dismissal under § 1307(b) would devoid court of jurisdiction over collection of attorney's fees as a core proceeding). And motions for relief from the automatic stay are core proceedings. 28 U.S.C. § 157(b)(2)(G) (defining "core proceedings" to include "motions to terminate, annul, or modify the automatic stay"); *In re Nelson*, 621 B.R. 542, 555 (B.A.P. 1st Cir. 2020) ("[§ 362(d) motions] are core proceedings under 28 U.S.C. § 157(b)(2)(G)").

Thus, we lack jurisdiction to grant the relief that Lopez requests.

Lopez also appears to argue against the bankruptcy court's imposition of a 180-day bankruptcy filing ban in its Dismissal Order. To the extent that Lopez requests relief from that condition, we find his request to be moot. Lopez's entire appeal is centered on the January 24 foreclosure sale. This is the only injury of which Lopez complains. Because we lack jurisdiction to vacate the Stay Relief Order, that Order continues to bar the automatic application of § 362(a) on actions related to the Property. An order vacating the 180-day filing restriction would not affect that bar or undo foreclosure on the Property. Thus, Lopez lacks a "legally cognizable

interest in the outcome" of that aspect of his appeal, rendering the remainder of his appeal moot. *Los Angeles v. Davis*, 440 U.S. 625, 631 (1979) (quoting *Powell v. McCormack*, 395 U.S. 486, 496 (1969)).

This appeal is DISMISSED.

Entered for the Court

Richard E.N. Federico
Circuit Judge