

FILED
United States Court of Appeals
Tenth Circuit

APR 18 1990

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

ROBERT L. HOECKER
Clerk

JOSEPH F. SMITH,
Plaintiff-Appellee,
v.
TBC, INC.,
Defendant,
and
CARIL BARRON,
Defendant-Appellant.

No. 89-7094
(D.C. No. 88-639-C)
(E.D. Oklahoma)

ORDER AND JUDGMENT*

Before MOORE, BRORBY, and EBEL, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

*This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

This is an appeal from a default judgment entered as a sanction for violation of repeated orders of the district court. Appellant's brief is unintelligible; therefore, we have carefully examined the record to determine whether any basis exists for reversal of the default judgment. This examination has satisfied us there is more than ample reason for the district court's imposition of the ultimate sanction provided by Fed. R. Civ. P. 37(b)(2)(C). Moreover, appellant failed to object to the magistrate's recommendation, thus precluding her appeal of the judgment. Accordingly, for the reasons set forth in the magistrate's recommended findings of fact and conclusions of law dated August 23, 1989, the judgment of the district court is **AFFIRMED**. Appellant's motion for leave to appeal without payment of costs is granted.

Entered for the Court

John P. Moore
Circuit Judge