

July 14, 2016

In re Sheri Speer, No. 3:16-cv-288 (RNC)

ORDER dismissing appeal

Bankruptcy debtor Sheri Speer, proceeding pro se, seeks review of a bankruptcy court order granting non-party Wells Fargo Bank, N.A. relief from the automatic stay for the purpose of pursuing a foreclosure action. Wells Fargo first moved for relief from the automatic stay on September 11, 2014. Its unopposed motion was granted on October 1, 2014, and Ms. Speer did not appeal. On January 4, 2016, different counsel for Wells Fargo mistakenly moved once again for relief from the automatic stay. The bankruptcy court granted the second motion on February 5, 2016, and Ms. Speer filed the present appeal.

Wells Fargo has moved to dismiss this appeal, arguing principally that the prior order granting it relief from the automatic stay renders the present matter moot. Ms. Speer responds that the matter is not moot because the filing of the second motion for stay relief provided the bankruptcy court with an opportunity to reimpose the stay if it wished to do so. I agree with Wells Fargo that the appeal should be dismissed.

Under Article III of the Constitution, the authority conferred on federal courts is limited to deciding "the legal rights of litigants in actual controversies." Genesis Healthcare Corp. v. Symczyk, 133 S. Ct. 1523, 1528 (2013) (quoting Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982) (internal quotation marks omitted)). A case must be dismissed as moot if the court is unable to grant effective relief. See Church of Scientology of California v. United States, 506 U.S. 9, 12 (1992); In re Chateaugay Corp., 988 F.2d 322, 325 (2d Cir. 1993). That is the situation here. Even if this Court were to decide that the second motion for stay relief should not have been granted, the order granting the first motion would remain in effect.

Accordingly, the appeal is hereby dismissed. The Clerk may close the case.

So ordered.

/s/ RNC
Robert N. Chatigny
United States District Judge