REL: February 26, 2021

ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2020-2021

2190871

1st Franklin Financial Corporation

v.

Felesha Gamble Pettway

Appeal from Jefferson Circuit Court (CV-20-71)

EDWARDS, Judge.

In February 2012, 1st Franklin Financial Corporation was awarded a money judgment against Felesha Gamble Pettway in the Jefferson

District Court ("the district court") in case number DV-11-907391 ("the 2012 judgment"). 1st Franklin garnished Pettway's wages to collect the 2012 judgment. In February 2020, Pettway, acting pro se, filed in the district court a motion seeking to have the district court "set aside" the 2012 judgment because, she contended, it had been paid in full.[1] 1st Franklin responded to Pettway's motion, contending that the 2012 judgment had not been paid in full and that, instead, a significant balance remained. After a telephonic hearing, the district court entered an order on April 7, 2020, declaring the 2012 judgment satisfied.

1st Franklin timely appealed the district court's April 2020 order to the Jefferson Circuit Court ("the circuit court"); the appeal was assigned case number CV-20-71. 1st Franklin filed a motion for a summary judgment to which it attached documentation establishing the balance it contended was owed on the 2012 judgment. However, the circuit court

[1]Pettway filled out a form labeled "Pro Se Motion Form" and checked a box labeled "set aside the judgment that has been entered against me." In the section of the form requesting that she list her reasons for the motion, she explained that the 2012 judgment had been paid in full through garnishment of her wages.

entered a judgment on July 9, 2020, dismissing 1st Franklin's appeal of the district court's April 2020 order, stating, in pertinent part, that, because 1st Franklin's appeal "was not an appeal from a final judgment ..., this Court concludes that it lacks the subject matter to hear this appeal."

On August 20, 2020, 1st Franklin filed in this court two petitions for the writ of mandamus. The first petition was directed to the July 9, 2020, judgment of the circuit court, and it was docketed as case number 2190871; the second petition was directed to the April 7, 2020, order of the district court, and it was docketed as case number 2190874. We denied the petition in case number 2190874, see Ex parte 1st Franklin Fin. Corp. (No. 2190874, Sept. 15, 2020), ___ So. 3d ___ (Ala. Civ. App. 2020) (table), because this court is not the court vested with supervisory authority over the district court. See Ala. Code 1975, § 12-11-30(4) ("The circuit court shall exercise a general superintendence over all district courts ...."). We ordered that the petition in case number 2190871 -- i.e., this case -- be treated as an appeal. The record having been compiled and briefing time having concluded, the appeal is now ripe for consideration.

In its brief on appeal, 1st Franklin argues that the district court's April 2020 order declaring the 2012 judgment satisfied was a final judgment capable of supporting its appeal to the circuit court.[2] We agree.

Although, at first read, it might appear that Pettway's pro se motion in the district court sought to have the 2012 judgment set aside, the substance of the motion convinces us otherwise.

> " 'An appellate "[c]ourt looks to the essence of a motion, not necessarily its title, to determine how the motion is to be considered under the Alabama Rules of Civil Procedure." ' Englebert v. Englebert, 791 So. 2d 975, 976 (Ala. Civ. App. 2000) (quoting Ex parte Johnson, 715 So. 2d 783, 785 (Ala. 1998))."

McLendon v. Hepburn, 876 So. 2d 479, 482 (Ala. Civ. App. 2003). As the district court correctly observed, Pettway was seeking to have the 2012 judgment deemed satisfied.

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[2]To the extent that 1st Franklin makes an argument in its brief on appeal regarding the merits of the district court's order granting Pettway's Rule 60(b)(5), Ala. R. Civ. P., motion -- i.e., her motion to "set aside" the 2012 judgment, see discussion, infra -- we note that we cannot entertain that argument because we are not the appropriate court to review a judgment of the district court. See Ala. Code 1975, §§ 12-12-70(a) and 12-12-71.

Rule 60(b)(5), Ala. R. Civ. P., permits a court to grant relief from a judgment if "the judgment has been satisfied, released, or discharged ...." In McLendon, we determined that a motion alleging that a judgment should have been presumed to have been satisfied pursuant to Ala. Code 1975, § 6-9-191, was a Rule 60(b)(5) motion. In this case, Pettway argued in her pro se motion that the 2012 judgment had been satisfied by payment through the garnishment of her wages. Thus, like the district court, we conclude that Pettway's motion was, in essence, a Rule 60(b)(5) motion seeking to have the 2012 judgment deemed satisfied.

We must now consider whether the district court's April 2020 order granting Pettway's Rule 60(b)(5) motion and declaring the 2012 judgment satisfied was a final, appealable judgment.

> " 'The grant of a Rule 60(b) motion is generally treated as interlocutory and not appealable.' Ex parte Short, 434 So. 2d 728, 730 (Ala. 1983). However, the rule barring appellate review of an order granting Rule 60(b) relief is not absolute; where such an order bears sufficient indicia of finality to warrant a conclusion that it constitutes a 'final judgment,' pursuant to § 12-22-2, Ala. Code 1975, it is appealable. E.g., Littlefield v. Cupps, 371 So. 2d 51, 52 (Ala. Civ. App. 1979) (order granting relief from void judgment under Rule 60(b)(4) for want of jurisdiction finally disposed of case and was immediately appealable); and Sanders v. Blue Cross-Blue

> Shield of Alabama, Inc., 368 So. 2d 8, 9 (Ala. 1979) (order granting Rule 60(b) motion so as to allow a second action to be filed on movant's contract claims was appealable)."

Wal-Mart Stores, Inc. v. Pitts, 900 So. 2d 1240, 1244 (Ala. Civ. App. 2004); see also Tuscaloosa Chevrolet, Inc. v. Guyton, 41 So. 3d 95, 99 (Ala. Civ. App. 2009) ("[T]he order granting Shirley's motion for relief from the judgment in the case now before us not only relieved her from that judgment but also rendered a judgment in her favor, which terminated the proceedings in the trial court. Thus, that order is a final, appealable order.").

"A final judgment is a terminative decision by a court of competent jurisdiction which demonstrates there has been complete adjudication of all matters in controversy between the litigants within the cognizance of that court. That is, it must be conclusive and certain in itself." Jewell v. Jackson & Whitsitt Cotton Co., 331 So. 2d 623, 625 (Ala. 1976). Furthermore, "Rule 58(b), Ala. R. Civ. P., defines a judgment as one that, among other things, 'indicates an intention to adjudicate, considering the whole record, and ... indicates the substance of the adjudication.' " Ricks v. 1st Franklin Fin. Corp., 269 So. 3d 487, 489 (Ala. Civ. App. 2018).

The district court's April 2020 order granting Pettway's motion to deem the 2012 judgment satisfied adjudicated the issue presented to it and settled the matters in controversy between the parties by terminating Pettway's duty to make further payments on the 2012 judgment and by prohibiting 1st Franklin from collecting on any outstanding balance of that judgment, assuming one exists.[3] No issues remained for the district court's determination, and no further proceedings were required in the district court. Thus, the district court's April 2020 order was, in fact, a final judgment capable of supporting 1st Franklin's appeal to the circuit court. See Ala. Code 1975, §§ 12-12-70(a) and 12-12-71 (indicating that an appeal from a district court judgment in a civil case is to the circuit court for a trial de novo).

The circuit court erred in concluding that the district court's April 2020 order granting Pettway's Rule 60(b)(5) motion was interlocutory and could not support 1st Franklin's appeal. Accordingly, we reverse the

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[3]The only issue for decision in this court is whether the circuit court erred in dismissing 1st Franklin's appeal from the district court's April 2020 order. Thus, we express no opinion on the issue whether, as 1st Franklin contends, the 2012 judgment was not yet satisfied.

judgment of the circuit court dismissing 1st Franklin's appeal, and we remand the cause for further proceedings in the circuit court.

REVERSED AND REMANDED.

Thompson, P.J., and Moore, Hanson, and Fridy, JJ., concur.