

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-2042

In Re: BEVERLY BYRD; RALPH T. BYRD,

Debtors.

- - - - -

BEVERLY BYRD; RALPH T. BYRD,

Plaintiffs - Appellants,

versus

GREGORY JOHNSON; JAMES M. HOFFMAN;
ROGER SCHLOSSBERG, Trustee,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Alexander Williams, Jr., District Judge. (8:05-cv-02389-AW; 8:06-cv-00895-AW; 8:02-cv-02675-JFM; BK-04-35620)

Submitted: June 11, 2007

Decided: June 28, 2007

Before WILKINSON, GREGORY, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Ralph T. Byrd, Laytonsville, Maryland, for Appellants. James M. Hoffman, SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A., Rockville, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ralph and Beverly Byrd appeal from the district court's orders dismissing their appeal from the bankruptcy court's orders appointing a Chapter 11 trustee, denying reconsideration of the appointment, and dismissing as interlocutory their appeal from the orders awarding fees to the trustee and special counsel for the trustee and denying reconsideration of that order. We have reviewed the record and the briefs filed by the parties and we affirm the dismissal order substantially on the reasoning of the district court. Byrd v. Johnson, No. 8:05-cv-02389-AW (D. Md. Apr. 7, 2006). However, we note that, contrary to the district court's conclusion, the issue of the appointment of the Chapter 11 trustee had not been decided in Ralph Byrd's prior appeal; rather, the district court dismissed the prior appeal as moot, with the understanding that Byrd's challenge to the propriety of the trustee's appointment would be presented to the bankruptcy court in the context of whether fees should be awarded. We agree, however, with the district court's dismissal of this portion of the appeal, on the modified basis that it is interlocutory, rather than based on res judicata. See In Re: Computer Learning Ctrs., Inc., 407 F.3d 656, 660 (4th Cir. 2005) (citing In Re: Boddy, 950 F.2d 334, 336 (6th Cir. 1991)). We dispense with oral argument because the facts and legal contentions are adequately presented in the

materials before the court and argument would not aid the decisional process.

AFFIRMED