

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 12, 2021

Lyle W. Cayce
Clerk

No. 20-11074
Summary Calendar

IN THE MATTER OF: WILLIAM PAUL BURCH

Debtor,

WILLIAM PAUL BURCH,

Appellant,

versus

AMERICA'S SERVICING COMPANY,

Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CV-1048

Before STEWART, HAYNES, and HO, *Circuit Judges.*

PER CURIAM:*

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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William Paul Burch appeals the district court's dismissal for failure to pay the filing fee for his appeal in the district court of a judgment of the bankruptcy court for the Northern District of Texas. Burch has filed a motion to remand this matter to the district court, stating that he is now able to pay the filing fee. Because the record does not establish that the district court issued a statement or indicative ruling in accordance with Federal Rule of Civil Procedure 62.1 and Federal Rule of Appellate Procedure 12.1, upon which Burch relies, Burch's motion for remand is not well taken and is thus denied. *See* FED. R. APP. P. 12.1; FED. R. CIV. P. 62.1; *cf. Moore v. Tangipahoa Par. Sch. Bd.*, 836 F.3d 503, 504 (5th Cir. 2016). Burch's motion to file an out of time reply to the opposition to remand is likewise denied.

The motion for remand additionally acknowledges that Burch does not currently meet the financial eligibility requirements to proceed IFP in this appeal. *See* FED. R. APP. P. 24(a); 28 U.S.C. § 1915(a)(1); *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982); *see also Burch v. Freedom Mortg. Corp. (In re Burch)*, 835 F. App'x 741, 749 (5th Cir. 2021), *cert. denied*, 2021 WL 4508733 (U.S. Oct. 4, 2021) (No. 21-5069). Moreover, Burch does not challenge the district court's determination that he failed to pay the filing fee in that court, which was the only ruling Burch has appealed. Burch therefore fails show a nonfrivolous issue for appeal or financial eligibility to proceed IFP; accordingly, the motion to proceed IFP is denied and the appeal is dismissed as frivolous. *See* 5TH CIR. R. 42.2; § 1915.

Burch was previously warned that if he continued to file frivolous appeals and motions in this court, this court would issue sanctions, and he was warned to withdraw any pending frivolous appeals. *Burch v. Freedom Mortg. Corp.*, 850 F. App'x 292, 294 (5th Cir. 2021); *Burch*, 835 F. App'x at 749. Because this court has previously warned of sanctions and the instant appeal is frivolous, we determine that sanctions are warranted. *See Coghlan v. Starkey*, 852 F.2d 806, 808 (5th Cir. 1988). Burch is hereby ordered to pay

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\$100.00 to the clerk of this court. The clerk of this court and the clerks of all courts subject to the jurisdiction of this court are directed to return to Burch unfiled any submissions he should make until the sanction is paid in full. Burch is again warned that additional frivolous or abusive filings in this court, the district court, or the bankruptcy court will result in the imposition of further sanctions. He is again admonished to review any pending appeals and to withdraw any appeals that are frivolous.

MOTIONS DENIED; APPEAL DISMISSED AS FRIVOLOUS; SANCTION IMPOSED; ADDITIONAL SANCTION WARNING ISSUED.