NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 13, 2023*
Decided April 21, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 17-1615

ESTATE OF SOAD WATTAR, et al.,
Intervenors-Appellants,

v.

HORACE FOX, JR.,
Trustee-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 16-cv-4699

Robert M. Dow, Jr.,
Judge.

No. 18-2197

IN RE: RICHARD SHARIF,
Debtor.

APPEAL OF: MAURICE SALEM

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

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*We have agreed to decide these cases without oral argument because the briefs and the record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

No. 17-cv-1500

Robert M. Dow, Jr.,
Judge.

No. 22-2826

HAIFA SHARIFEH,
Intervenor-Appellant,

v.

HORACE FOX, JR.,
Trustee-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 18-cv-8508

Martha M. Pacold,
Judge.

O R D E R

In 2010, the United States Bankruptcy Court for the Northern District of Illinois ruled that all assets held by the Soad Wattar Revocable Living Trust —including the Wattar family home—were part of the bankruptcy estate of Richard Sharif. Sharif was the son of Soad Wattar, now deceased, and as the sole trustee of the Wattar trust had full control of its assets. Haifa and Ragda Sharifeh—Richard's sisters—soon began attempting to demonstrate their ownership of trust assets to keep those assets out of their brother's bankruptcy estate. At issue in these appeals are the bankruptcy court's rulings on three motions: (1) Haifa's 2015 motion to vacate the decision that all trust assets belonged to the bankruptcy estate; (2) the sisters' joint 2016 motion for leave to sue the Chapter 7 trustee of Richard's bankruptcy for purported due-process violations; and (3) Ragda's 2016 motion seeking both reimbursement of money she allegedly spent on the family home and the proceeds from Wattar's life insurance policy, which had been ruled an asset of the trust and therefore part of the bankruptcy estate. The bankruptcy court denied all three motions and sanctioned the sisters and Maurice Salem, who was then their attorney. Each ruling was affirmed on appeal to the district court. We are no more persuaded by the appellants' arguments, to the extent they develop any, than the judges who have already rejected them, and so we affirm.

Richard Sharif filed for Chapter 7 bankruptcy in 2009. At the time, he was the sole trustee of his mother Soad Wattar's living trust. (His sisters would later argue that

a 2007 trust amendment had made Ragda the sole trustee, but that led nowhere.) When Wattar died in March 2010, Richard produced a will that named him executor and provided for all Wattar's assets to pass into the trust. In June 2010, in a creditor's adversary proceeding against Richard, the bankruptcy court ruled that the trust's assets were part of the bankruptcy estate because Richard had sole control and treated them like his personal property. On the motion of the Chapter 7 bankruptcy trustee, Horace Fox, the bankruptcy court then ordered the trust assets to be turned over to the bankruptcy estate. (The parties refer to this as the turnover order.)

While Richard appealed this ruling, see *Wellness Int'l Network, Ltd. v. Sharif*, 727 F.3d 751 (7th Cir. 2013), *rev'd*, 575 U.S. 665 (2015), Haifa and Ragda sought control of trust assets, first in state court, unsuccessfully, and then as intervenors in Richard's bankruptcy case. By the bankruptcy court's count, at least ten rulings between 2010 and 2015 addressed who owned the trust assets, including our 2015 affirmance—on remand from the Supreme Court of the United States—of the bankruptcy court's initial decision that the trust and Richard were alter egos. See *Wellness Int'l Network, Ltd. v. Sharif*, 617 F. Appx. 589, 591 (7th Cir. 2015).

These rulings also included the bankruptcy court's denial of Haifa's 2015 motion on behalf of her mother's estate to vacate the turnover order. See FED. R. CIV. P. 60(b)(4). When the trustee opposed the motion, Haifa attached to her reply brief a theretofore-unknown second will. Dated April 28, 2007—two days after the will Richard had produced five years earlier—it purported to name Haifa the executor of their mother's estate. Haifa argued that the turnover order was invalid because only with notice to the true executor could the court dispose of the Wattar estate's assets, and she was not notified.

The bankruptcy court denied Haifa's motion after finding that Haifa had received notice of the proceedings, that the second will was forged, that even if it were genuine Haifa still lacked interest in the disputed assets—which were property of the trust no matter who the will's executor was—and that, in any event, laches barred her claim because she had unreasonably delayed pursuing it. The court also determined that Haifa's testimony that she had not received notice of the bankruptcy proceedings or turnover order was not credible. The district court (Judge Pacold) affirmed.

In 2016, the sisters requested leave of the bankruptcy court to sue Fox, the Chapter 7 bankruptcy trustee, and his attorney, for violating their rights by moving for the transfer of trust assets to Richard's bankruptcy estate. Advance permission from the

bankruptcy court is required to sue a trustee for actions taken in that capacity. See *Matter of Linton*, 136 F.3d 544, 545 (7th Cir. 1998). The sisters, now represented by Salem, identified their prospective suit as a Fifth Amendment due-process claim under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). At the same time, Ragda moved for funds from the bankruptcy estate to reimburse her for mortgage and tax payments she says she made on the family home between 2010 and 2015. She also asserted that she was the proper beneficiary of Wattar's life insurance policy and was owed the proceeds because they were exempt from bankruptcy under Illinois law. See 735 ILCS 5/12-1001(f).

The bankruptcy court denied the sisters leave to sue after concluding that they failed to make the required initial showing that their claims had some foundation. The one-page motion trailed off midsentence, and the attached complaint sought to sue Fox and his attorney under *Bivens* based on a dubious assertion that they were "federal agents." As for Ragda's motion, the bankruptcy court concluded that she cited no statutory or contractual basis for recouping her alleged expenditures on the home—which, Ragda conceded, were voluntary. Further, the bankruptcy exemption she invoked for the insurance proceeds did not apply both because it is for dependents of the insured, which Ragda was not, and because only debtors can invoke exemptions.

The bankruptcy court then ordered Salem, Ragda, and Haifa to show cause why they should not be sanctioned. After receiving their responses and holding a hearing, the bankruptcy court concluded that their 2016 motions violated Federal Rule of Bankruptcy Procedure 9011 because they lacked a basis in law or evidence. The court further concluded that the motions had been filed "to harass the bankruptcy trustee, cause unnecessary delay and . . . increase the cost of litigation," and had indeed increased the bankruptcy estate's litigation expenses. After reviewing in detail the history of the decade-plus bankruptcy litigation and the sisters' attempts to siphon off assets controlled by Richard (and his other creditors), the court further determined that Salem, Ragda, and Haifa displayed "repeated disregard for the facts and the law" and that "[t]ime and again, [they] have shown a complete disregard for the judicial system, making blatant attempts to circumvent it." As a result, the court issued sanctions: it barred Salem, Ragda, and Haifa from any further filings in the bankruptcy case and fined Salem $20,000. On appeal, the district court (Judge Dow) affirmed the denial of the motions and imposition of sanctions.

These events resulted in three separate appeals to this court. We initially consolidated the appeals of the rulings on the 2016 motions and sanctions, while Haifa's

appeal of the denial of her motion to vacate proceeded in parallel. Because they spring from the same bankruptcy case and rest on a common factual background, we now consolidate all three appeals for disposition. We note that Salem has been suspended from the practice of law and, because he is proceeding pro se, can represent only himself. Nevertheless, in their joint brief Haifa and Ragda adopt Salem's appellate arguments about their 2016 motions and sanctions. See FED. R. APP. P. 28(i).

On appeal, Haifa challenges the denial of her 2015 motion to vacate the turnover of trust assets, she and Ragda challenge the denial of their 2016 motions, and the sisters and Salem all challenge the sanctions. Each of the challenged rulings pertains to a discrete matter within the overarching bankruptcy that the bankruptcy court disposed of definitively, and therefore, the district court and this court can properly exercise jurisdiction over the appeals. 28 U.S.C. § 158(a), (d)(1); *Ritzen Grp., Inc. v. Jackson Masonry, LLC*, 140 S. Ct. 582, 586–87 (2020). We review the bankruptcy court's findings of fact for clear error and the legal conclusions of both the bankruptcy court and district court de novo, with special deference to the bankruptcy court's assessment of credibility. *In re Dimas*, 14 F.4th 634, 639–40, 642 (7th Cir. 2021). We may affirm on any basis supported by the record, as long as it was raised below and the appellants had the opportunity to contest it. *McHenry County v. Raoul*, 44 F.4th 581, 588 (7th Cir. 2022); *In re Airadigm Commc'ns, Inc.*, 616 F.3d 642, 652 (7th Cir. 2010) (bankruptcy appeal).

I. Haifa's 2015 Motion to Vacate the Turnover of Trust Assets

Haifa contends that the turnover order must be vacated because after the bankruptcy court's ruling she obtained a newer copy of the second will—this one certified by a Syrian court—that proves its veracity. She repeats her argument that her mother's estate was not bound by the turnover order because she—as purported executor—never received notice.

Though Haifa primarily challenges the bankruptcy court's finding that the second will is a forgery, we can resolve her appeal without wading into her contrary assertions. Even if Haifa were really the executor, she simply waited too long to stand on the estate's rights. In the bankruptcy and district courts, Fox raised the equitable defense of laches, which cuts off the right to sue when the plaintiff has inexcusably delayed bringing suit, and that delay harmed the defendant. See *Teamsters & Emps. Welfare Tr. v. Gorman Bros. Ready Mix*, 283 F.3d 877, 880 (7th Cir. 2002). Haifa does not meaningfully dispute Fox's assertion that the delay was prejudicial to the bankruptcy

estate, nor could she: if the second will controls, Fox has been allocating assets improperly for years. We therefore focus on whether the delay is excusable.

Haifa's explanation for her years-long delay in producing and seeking to enforce the second will is unconvincing. She first argues that she lacked notice of the bankruptcy proceedings or turnover order. But even if, despite being a creditor, she was not served with filings or copies of rulings, we see no error in the bankruptcy court's determination that Haifa had actual notice. Among other things, Haifa and Ragda filed a state-court complaint in July 2010 that discussed the bankruptcy and the alter-ego order. And Haifa gives us no reason not to defer to the bankruptcy court's assessment—based on inconsistent statements in other proceedings and her participation in the state-court litigation—that Haifa's testimony about when she learned of things was not credible. *Dimas*, 14 F.4th at 642.

Haifa next argues that she could not act until 2015 because the Supreme Court was considering a decision of this court, which, according to Haifa had "vacated" the turnover order in Richard's appeal. Our decision, Haifa says, meant that the probate estate was "winning the trust" back from the bankruptcy estate, and she had to wait for her brother's Supreme Court appeal to conclude. That was not the nature of Richard's appeal, however. In any case, we issued our decision in August 2013, meaning that Haifa had three years before then to challenge the turnover order; she purports to have been aware of the second will from the time it was executed in 2007 and does not explain why she did not invoke it as soon as her brother began to act as executor. Further, Haifa's assertion is simply that she was the executor, who was entitled to notice—she has never disputed that even under her version of the will, her mother's assets passed directly to the trust, which Haifa has never controlled. Thus her reasons for waiting are muddled at best and do not outweigh the prejudice to the bankruptcy estate.

The district court gave other reasons, including collateral estoppel, for rejecting Haifa's attempt to invalidate the turnover order. Though we do not take issue with those reasons, we find it most straightforward to affirm based on Haifa's inexcusable delay in trying to upset the foundation of the bankruptcy proceedings.

II. The 2016 Motions

Next, the appellants assert that the district court applied the wrong standard in reviewing the bankruptcy court's denial of the sisters' motion for leave to sue Fox. They

assert that the district court should have reversed because the bankruptcy court failed to assess whether they made a prima facie case for Fox's violation of their rights. But this is not true. The bankruptcy court, in its lengthy order discussing the motion's failings, simply made an assessment with which they disagree.

The bankruptcy court correctly concluded that the motion did not make a prima facie case for a right to relief against Fox. It made no case at all: the motion trails off and does not present a complete argument. The appellants did not explain then—nor do they now—why they could sue a Chapter 7 trustee under *Bivens*. Nor, despite Salem's protestations, did the proposed complaint itself; it incorrectly asserts that Fox and his attorney were "federal agents" who deprived the Wattar estate and Ragda of property without "notice and a hearing." But Chapter 7 trustees are not federal officials; they are private representatives appointed to protect a bankruptcy estate. 11 U.S.C. § 701(a)(1).

The appellants also develop no argument explaining a legal basis for Ragda to recoup mortgage and tax payments she allegedly made, or to receive the life insurance proceeds that were payable to the trust as beneficiary (and then transferred to the bankruptcy estate). The appellants' challenges to the denial of the 2016 motions are underdeveloped and unsupported by law and are therefore waived. *Puffer v. Allstate Ins. Co.*, 675 F.3d 709, 718 (7th Cir. 2012).

III. The Bankruptcy Court's Sanctions

We review for abuse of discretion the bankruptcy court's imposition of sanctions on Ragda, Haifa, and Salem: a bar of further filings in the bankruptcy case plus a $20,000 fine for Salem. See *In re Rinaldi*, 778 F.3d 672, 676 (7th Cir. 2015). We find no such abuse here. Salem principally argues that sanctions were inappropriate because the motions he filed were not "another attempt to obtain the same relief" sought in previous motions and were therefore not repetitive. While this may be true in the narrow sense—no party previously sought to sue the bankruptcy trustee under *Bivens*—the bankruptcy court reasonably concluded that these motions represented yet another refusal to accept the settled issue that the trust assets were part of the bankruptcy estate.

Besides, Salem's focus on "repetitiveness" misses the point. The bankruptcy court determined that no argument in the 2016 motions was supported by fact or law and that the motions were intended to harass the trustee and increase the cost of litigation. See FED. R. BANKR. P. 9011(b)(1)–(2). As discussed above, the appellants present no legal basis for their motions, even as they appeal the rulings. And they do

not address the bankruptcy court's finding that those motions were intended to harass Fox and needlessly increase the cost of litigation. They merely make the bare and incorrect assertion that the bankruptcy court's lengthy sanctions order failed to address certain issues. The burden is on the appellants to tell us why the sanctions were so off-base that imposing them was an abuse of discretion. They cannot prevail when they fail to engage with the reasons why the bankruptcy court imposed, and the district court upheld, the sanctions. See *Klein v. O'Brien*, 884 F.3d 754, 757 (7th Cir. 2018). We add that barring these litigants from further filings in the bankruptcy action was a sensible response to their frivolous attempts to undermine long-settled issues through various mechanisms.

We have considered appellants' other arguments—including Salem's umbrage at the documentation of his history of litigation misconduct outside of these cases and a frivolous suggestion that the sanctions chill protected speech—and none has merit.

AFFIRMED