

United States Bankruptcy Appellate Panel
For the Eighth Circuit

No. 21-6005

In re: Bryan S. Reichel

Debtor.

Bryan S. Reichel

Debtor – Appellant,

v.

James L. Snyder

U.S. Trustee - Appellee

Appeal from United States Bankruptcy Court
for the District of Minnesota – St. Paul

Submitted: March 31, 2021

Filed: April 2, 2021

Before NAIL, Chief Judge, SALADINO and SHODEEN, Bankruptcy Judges.

SHODEEN, Bankruptcy Judge

This appeal arises from a final order entered by the bankruptcy court denying the Appellants Motion for “Revised and Corrected Motion for Relief From Judgment or Order and/or Reopen the Case, Motion for Evidentiary Hearing/Appointment of Counsel.” Before this panel is the issue of whether Reichel’s notice of appeal was timely filed pursuant to Federal Rule of Bankruptcy Procedure 8002(a)(a).

The Appellant filed the Notice of Appeal on March 31, 2021. In that document he seems to recognize that his appeal is beyond the 14-day limit and therefore untimely filed:

****NOTE**** For purposes of establishing the timeliness for this NOTICE OF APPEAL, Reichel point out that the Court ruled and denied Reichel’s Motion (Dkt. #226) back on 2/26/21, but for “unknown reasons”, the Court’s order was not mailed to Reichel until 3/17/21...almost THREE weeks later. (See: Date on US Bankruptcy Court envelope – Exhibit “A”). Reichel did not receive the Court’s Order at Ft. Dix, New Jersey until March 23, 2021, so therefore this Notice of Appeal is timely served.

The date of delivery cannot be confirmed because Exhibit A is not included with the Notice of Appeal. Notwithstanding this omission the time to appeal the order had expired. According to the record before us, the bankruptcy court entered its order, that is at issue in this pending appeal, on February 26, 2021. That order was served by the Bankruptcy Noticing Center (Case No. 11-32923 at docket number 228) to an address in Ohio.¹ Fed. R. Bank. Pro. 9022(a).

“Lack of notice of the entry does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed,

¹ Reichel’s original petition stated his address was in Prior Lake, Minnesota. During the time period of June 2019 until December 2020 Reichel’s filings reflect his mailing address as being in Ohio. Starting in December 2020, it appears that Reichel began using an address in Ft. Dix, New Jersey. (see docket number 226).

except as permitted in Rule 8002.” *Id.* The Appellant did not seek an extension of time to file his appeal from the bankruptcy court pursuant to Federal Rule of Bankruptcy Procedure 8002(d). To the extent Reichel is raising an issue involving service of the order, and any related time period for appeal, it is properly addressed in the first instance by the bankruptcy court not in the Notice of Appeal.

For the reasons stated this appeal is dismissed as untimely filed.
