

ORIGINAL

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U.S. DISTRICT COURT
AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

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IN RE: PARADISE FARMS, INC., *
Debtor. *

Bankruptcy No. 12-30111

LISTER W. HARRELL; SARALAND, *
LLLP; and PARADISE FARMS, INC., *

CV 314-134

Plaintiffs, *

(Adversary Number in
Bankruptcy Court: 14-03010)

vs. *

NIKKI HARRELL MULLIS; BRETT *
COLEMAN; SID CARTER; SARA *
HARRELL; DONALD HELMS; and *
LYNN SHEFFIELD, *

Defendants. *

ORDER

Mr. Lister W. Harrell appeals the decision of the United States Bankruptcy Court, Southern District of Georgia, to dismiss an adversary proceeding which was filed by Mr. Harrell and purportedly two entities of which he is a principal, Saraland, LLLP and Paradise Farms, Inc.¹ The underlying bankruptcy case is a Chapter 7 proceeding involving Paradise Farms, Inc. - Bankruptcy Case No. 12-30111 (S.D. Ga. Mar. 29,

¹ There is no indication that either the Chapter 11 Trustee for Saraland, LLLP or the Chapter 7 Trustee for Paradise Farms, Inc. had authorized the filing of the adversary proceeding on behalf of their respective entities.

2012).

The Bankruptcy Court dismissed the adversary proceeding on September 5, 2014, upon Mr. Harrell's failure to pay the required filing fee and his failure to substantially conform to the applicable rules and forms for filing an adversary proceeding. (See Show Cause Order of July 17, 2014, Bankr. Doc. No. 5, Bankr. Case No. 14-03010.) On September 24, 2014, Mr. Harrell filed a notice of appeal, but he did not pay the appellate filing fee.

On December 9, 2014, this Court adopted the Report and Recommendation of the United States Bankruptcy Court denying Mr. Harrell *in forma pauperis* status. In this same Order of December 9, 2014, this Court gave Mr. Harrell ten days to file the required filing fee or face dismissal of the appeal.

On December 19, 2014, Mr. Harrell filed a Notice of Appeal to the Eleventh Circuit Court of Appeals, appealing the December 9, 2014 Order directing the payment of the filing fee. (Doc. No. 8.) The Notice of Appeal was accompanied by a motion for leave to appeal *in forma pauperis* and motion to appoint counsel. (Doc. Nos. 9 & 10.) Because a final judgment or order had not been entered in this case at that point, Mr. Harrell's notice of appeal is premature and improper. Nevertheless, it is clear from this case and the multitude of other appeals filed by Mr. Harrell in this Court that he does not plan to pay the filing

fee. Accordingly, **IT IS ORDERED** that the instant appeal be **DISMISSED.**²

IT IS FURTHER ORDERED, in accordance with Federal Rule of Appellate Procedure 4(a)(2), that Mr. Harrell's Notice of Appeal to the Eleventh Circuit is deemed filed as of the date of this entry of this Order. Further, the appeal is frivolous and without merit; accordingly, Mr. Harrell's motion to proceed *in forma pauperis* on appeal (doc. no. 9) is **DENIED**. See 28 U.S.C. § 1915(a)(3). The motion to appoint counsel (doc. no. 10) is therefore **DENIED AS MOOT**.

ORDER ENTERED at Augusta, Georgia, this 26th day of January, 2015.


UNITED STATES DISTRICT JUDGE

² The Clerk is directed to **CLOSE** the case; Mr. Harrell's motion for extension of time and motion to produce, filed on December 10, 2014, and the multiple miscellaneous motions filed on January 13, 2015, are **DENIED AS MOOT**.