

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

In Re:

LOSI TYRELL,

Debtor,

CV 15-00157 DKW-BMK

Bankruptcy Case No. 14-00205

Adversary Proceeding No. 14-90042

ORDER DISMISSING APPEAL

LOSI TYRELL,

Plaintiff,

vs.

BANK OF AMERICA, N.A.,

Defendant.

ORDER DISMISSING APPEAL

On March 31, 2015, Debtor-Appellant Losi Tyrell filed a Notice of Appeal from Bankruptcy Court, which was transferred from the Bankruptcy Appellate Panel to this district court on May 1, 2015. At a June 5, 2015 status conference, the magistrate judge issued a court-ordered briefing schedule and set oral argument for September 25, 2015. *See* Dkt. No. 13. When Tyrell did not file an opening brief by the July 13, 2015 deadline, the Court entered an Order to Show Cause why this

appeal should not be dismissed for failure to prosecute and failure to comply with a court order. *See* Dkt. No. 14. The July 28, 2015 Order To Show Cause directed Tyrell to file a response by August 7, 2015, and specifically cautioned Tyrell that failure to respond to the Order to Show Cause would result in the dismissal of this appeal. As of the date of this order, Tyrell has neither filed an opening brief nor responded to the Court's July 28, 2015 Order to Show Cause. Because Tyrell has failed to comply with the Court's order, this appeal is dismissed without prejudice.

The Court previously informed Tyrell that, “[w]hen an appellant fails to file an opening brief timely, or otherwise fails to comply with rules or orders regarding processing the appeal, the BAP Clerk, after notice, may enter an order dismissing the appeal.” BAP LR 8070-1; *cf.* Ninth Circuit Rule 42-1 (“When an appellant fails to file a timely record, pay the docket fee, file a timely brief, or otherwise comply with rules requiring processing the appeal for hearing, an order may be entered by the clerk dismissing the appeal[.]”). The Federal Rules of Bankruptcy Procedure are clear: “If an appellant fails to file a brief on time or within an extended time authorized by the district court or BAP, an appellee may move to dismiss the appeal--or the district court or BAP, after notice, may dismiss the appeal on its own motion.” Fed.R.Bankr.P. 8018(a)(4); *see also In re Pulliam*, 2015 WL 3889448,

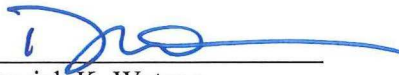
at *3 (C.D. Cal. June 23, 2015) (affirming dismissal of bankruptcy appeal where appellant did not file opening brief as ordered).

Tyrell has made no attempt to comply with the rules governing bankruptcy appeals, the district court's June 5, 2015 scheduling order or the July 28, 2015 Order to Show Cause. Moreover, Tyrell has made no showing of excusable neglect or other justification for failing to comply with the Court's specific directives in this matter. Accordingly, this appeal is hereby DISMISSED.

IT IS SO ORDERED.

DATED: August 11, 2015 at Honolulu, Hawai'i.




Derrick K. Watson
United States District Judge

In Re: Debtor Losi Tyrell/Losi Tyrell v. Bank of America, N.A.,
Civil No. 15-00157 DKW-BMK; Bankruptcy Case No. 14-00205
Adversary Proceeding No. 14-90042
ORDER DISMISSING APPEAL