

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

JOHN WESKUNAS,)	
)	
Appellant,)	
)	
v.)	11-3177
)	
CFT-III, LLC,)	
)	
Appellee.)	

OPINION

SUE E. MYERSCOUGH, U.S. District Judge

This Court now considers pro se Appellant John Weskunas’ appeal of an Order from the U.S. Bankruptcy Court for the Central District of Illinois to this Court. See d/e 1. Pursuant to Federal Rule of Civil Procedure 41(b), the appeal will be DISMISSED FOR WANT OF PROSECUTION.

FACTS

Appellant filed his appeal on June 23, 2011. See d/e 1. This Court’s briefing schedule for the appeal required Appellant to file a brief

by July 18, 2011. See d/e dated June 29, 2011. Appellant did not file a brief by that date. On July 31, 2011, Appellee CFT-III LLC filed a 2-page long Appellee’s Brief. The Appellee’s Brief stated that Appellant “failed to file a brief in this cause by the deadline established by the Court” See d/e 2 at 1.

JURISDICTION

This Court has jurisdiction to hear an appeal from the U.S. Bankruptcy Court. See 28 U.S.C. § 158(a).

ANALYSIS

In the federal courts, parties’ pleadings, motions, and supporting memoranda are measured by their content, not their title. Cf. Bartholet v. Reishauer A.G., 953 F.2d 1073, 1078 (7th Cir. 1992); Guyton v. United States, 453 F.3d 425, 427 (7th Cir. 2006). Applying this principle here, it appears that Appellee—by reciting the Appellant’s “fail[ure] to file a brief”—is seeking involuntary dismissal of Appellant’s appeal under Federal Rule of Civil Procedure 41(b).

Involuntary dismissal under Rule 41(b) is appropriate when a party

moves to dismiss another party's claim for want of prosecution. Id.
Involuntary dismissal can also be ordered sua sponte by a court. See
Link v. Wabash R.R. Co., 370 U.S. 626, 629-30, 82 S.Ct. 1386, 1388-
89, 8 L.Ed.2d 734 (1962) (holding that a sua sponte Rule 41(b)
dismissal is proper to prevent undue delays in the disposition of pending
cases and to avoid congestion on a court's calendar).

Appellee's Brief can be construed as a Rule 41(b) motion.
Furthermore, sua sponte dismissal is proper under Rule 41(b) because
Appellant has not filed a brief in accordance with the briefing schedule.

CONCLUSION

THEREFORE, pro se Appellant John Weskunas' appeal is
DISMISSED. This case is CLOSED.

ENTER: August 1, 2011

FOR THE COURT:

s/ Sue E. Myerscough
SUE E. MYERSCOUGH
UNITED STATES DISTRICT JUDGE