

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 17-11131-GAO

In Re TEODORA CARAKER,
AppellantORDER
November 14, 2017

O'TOOLE, D.J.

The appellant filed this appeal from an order of the United States Bankruptcy Court for the District of Massachusetts lifting the automatic stay to permit a state court eviction action against the appellant to proceed. Her appeal is based on the argument that the bankruptcy court did not include findings of fact or conclusions of law in its order lifting the stay.

Pending before the Court is the appellees' motion to dismiss the appeal (dkt. no. 7). One asserted ground for dismissal is that the appeal is moot. The appellant did not file any opposition to the motion, but instead filed an appellate brief, which does not articulate any argument opposing dismissal of the appeal as moot.

Although the appellees argue alternate reasons why the appeal should be dismissed, this order only addresses the appellees' argument with regard to mootness because it is so plainly meritorious. As the appellees set forth in their memorandum, the bankruptcy court issued its ordering lifting the automatic stay on June 1, 2017. The appellant was lawfully evicted from the property at issue on June 20. (Mem. of Law in Supp. of Mot. of Heather C. Lufkin et. al. to Dismiss Appeal of Debtor-Appellant 5–7 (dkt. no. 8).) Absent an order that stayed the lifting of the stay, the appellees were entitled to proceed with the eviction process notwithstanding the appellant's appeal. As a result, even if the bankruptcy court erred in lifting the automatic stay, a question it is

unnecessary to consider, the state summary process action and its authorized eviction having been completed, this Court does not have the authority to restore the appellant to the property. Because no meaningful relief can be granted to the appellant, this appeal is moot. See In Re Soares, 187 F.3d 623, 623 (1st Cir. 1998) (unpublished decision) (foreclosure and sale of property rendered moot an appeal from the bankruptcy court's order to lift the automatic stay, where the order was not stayed pending appeal).

The appellees' motion to dismiss (dkt. no. 7) is GRANTED, and the appeal is DISMISSED.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge