

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10cv485**

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|--|---|---------------------|
| MARIANO HERNANDO OSPINA, |) | |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | <u>ORDER</u> |
| |) | |
| WARREN L. TADLOCK |) | |
| |) | |
| Appellee. |) | |
| <hr style="border: 0.5px solid black;"/> |) | |

THIS MATTER is before the Court on Appellant Ospina’s Appeal from Bankruptcy Court (Doc. No. 1). For the following reasons, the appeal is DISMISSED.

Ospina filed his notice of appeal on September 30, 2010 but failed to designate the items to be included in the record on appeal pursuant to Federal Rule of Bankruptcy Procedure 8006 and failed to pay the required \$255.00 filing fee due pursuant to 28 U.S.C. Section 1930. On November 3, 2010, this Court ordered Ospina to comply with these requirements within ten days and further advised him that failure to conform with this Order could result in dismissal of his appeal. (Doc. No. 7). Ospina did not comply. After denying Ospina’s appeal of the Order of the U.S. Bankruptcy Court Denying his IFP Motion (Doc. No. 10), this Court then ordered Ospina to show cause - in writing and within ten days - why his appeal should not be dismissed. In doing so, this Court noted its authority to dismiss a bankruptcy appeal when an appellant violates the rules of bankruptcy procedure and expressly stated that: “Ospina is warned that failure to make a timely response to this Order will result in the dismissal of this appeal.” (Doc. No. 10 at 2).

Ten days passed, and Ospina did not respond. Two days after the deadline, this Court

received Ospina's designation of items for appeal, but Ospina still failed to comply with this Court's order to show cause, in writing, why this appeal should not be dismissed. Moreover, he still has not paid the required \$255.00 filing fee despite this Court's repeated orders that he do so. Accordingly, Ospina's appeal is DISMISSED.

IT IS, THEREFORE, ORDERED that:

1. Appellant's Motion of Appeal (Doc. No. 9) is **DISMISSED**.
2. The Clerk is directed to send a copy of this Order, return receipt requested, to Appellant and a copy to the Bankruptcy Court.

Signed: March 28, 2011



Robert J. Conrad, Jr.
Chief United States District Judge

