

2018 IL App (1st) 171948-U

No. 1-17-1948

Order filed July 24, 2018

Second Division

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

DISCOVER BANK,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 17 M1 101921
)	
PRINCESS JOHNSON,)	Honorable
)	Clare J. Quish,
Defendant-Appellant.)	Judge, presiding.

PRESIDING JUSTICE MASON delivered the judgment of the court.
Justices Pucinski and Walker concurred in the judgment.

ORDER

- ¶ 1 *Held:* After the bankruptcy discharge of the subject money judgment, defendant's appeal is moot and must be dismissed.
- ¶ 2 This appeal arises from the trial court's judgment in favor of plaintiff Discover Bank ("Discover") against defendant Princess Johnson in the amount of \$5356.24 plus costs. Johnson appeals *pro se*, alleging that the trial court erred in applying the law and deciding the facts. This appeal is moot and, therefore, dismissed.

¶ 3 The common law record shows that, on January 18, 2017, Discover filed a complaint against Johnson for breach of contract, alleging that Johnson failed to pay her credit card balance.¹ On July 27, 2017, the trial court entered a judgment in favor of Discover for \$5356.24 plus costs. On August 3, 2017, Johnson filed a timely notice of appeal.

¶ 4 Discover filed an appearance but, on January 29, 2018, moved for leave to withdraw. It informed this court that, on January 22, 2018, during the pendency of the appeal, Johnson filed a petition under Chapter 7 of the Bankruptcy Code (11 U.S.C. § 727 (2012)). A notice of the Chapter 7 bankruptcy filing attached to Discover’s motion shows that Johnson filed a Chapter 7 petition in the United States Bankruptcy Court of the Northern District of Illinois (“bankruptcy court”), case number 18-01619, on January 19, 2018.

¶ 5 Discover asserted that, as a result of the automatic stay of the bankruptcy court (11 U.S.C. § 362(a) (2012)) and the provisions of the Fair Debt Collection Practices Act (15 U.S.C. § 1692 *et seq.* (2012)), it was prohibited from taking any action that could be construed as an attempt to collect a debt, which included filing a responsive brief in connection with Johnson’s appeal. See *In re County Treasurer and Ex Officio County Collector of Cook County*, 308 Ill. App. 3d 33, 40, 44 (1999) (a § 362 stay takes effect immediately upon the filing of a bankruptcy petition and, once it is in effect, no party may undertake any judicial action material to a claim against the debtor). Discover therefore moved to withdraw. On February 21, 2018, this court granted Discover leave to withdraw. On April 20, 2018, we ordered the appeal to be taken on Johnson’s brief only.

¹ The record on appeal consists of only the common law record. There are no reports of proceedings, bystander’s reports, or agreed-to written statement of facts.

¶ 6 Johnson has not provided this court with any information regarding her bankruptcy proceeding. Thus, we *sua sponte* obtained further information from the bankruptcy court and determined that it granted Johnson a discharge of her debts on April 24, 2018. See *People v. Wright*, 2013 IL App (1st) 103232, ¶ 38 (we may take judicial notice of proceedings in federal district courts). It closed her case on April 27, 2018.

¶ 7 When Johnson filed her bankruptcy petition, she listed Discover as an unsecured creditor to whom she owed \$5356, citing the circuit court number of the instant case (case No. 17 M1 101921) as the type of unsecured claim. Discover was notified of the discharge of Johnson's debts on April 26, 2018, and did not contest it. Therefore, Discover's money judgment against Johnson in the instant case was discharged in bankruptcy (11 U.S.C. § 727(b) (2012)), and it cannot collect on that judgment (11 U.S.C. § 524(a) (2012)). Accordingly, Johnson's appeal challenging the judgment is moot and this appeal must be dismissed. See *In re Marriage of Petersen*, 319 Ill. App. 3d 325, 335 (2001) ("An appeal becomes moot when a court can no longer effect the relief originally sought by an appellant or when the substantial question involved in the trial court no longer exists.")

¶ 8 For the foregoing reasons, we dismiss the appeal.

¶ 9 Dismissed.