

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA MYERS DIVISION

In re: Case No. 8:12-bk-14296-MGW  
Chapter 13

Frank M. Bafford,

Debtor.

**ORDER DENYING DEBTOR'S  
EMERGENCY MOTION TO VACATE  
DISTRICT COURT JUDGMENT FOR COSTS  
(Doc. No. 13)**

THIS CASE came before the Court on November 5, 2012, on the Debtor's *Emergency Motion to Grant Relief from Void Judgments* (the "Motion").<sup>1</sup> In the Motion, the Debtor asks the Court to void a monetary judgment entered against him by the United States District Court for the Middle District of Florida (the "District Court") in favor of Township Apartments Associates, Ltd., ("Township") in the amount of \$1,885.00 (the "District Court Judgment"). The Debtor contends that the District Court Judgment is void for lack of jurisdiction.<sup>2</sup>

Although the facts underlying the Debtor's Motion are convoluted to say the least, the resolution is straightforward. Even if there were a credible argument that the District Court Judgment is void—which there is not—this Court is powerless to vacate it because (i) the doctrines of *res judicata* and collateral estoppel preclude the Debtor from relitigating the identical issues that the District Court and Eleventh Circuit previously considered and rejected; and (ii) this Court does not have appellate jurisdiction over district court orders. For those reasons, the Debtor's Motion should be denied.

**Background**

This dispute arises out of the proposed sale of the Omni Apartments by Township. The Debtor offered to purchase the property for approximately \$7.3 million. But Township decided to accept an offer from another prospective purchaser ("Allied"), because Allied's offer to buy the Omni Apartments was nearly \$1 million more than the Debtor's offer, and because it contained other more favorable terms.

The Debtor, who is African American, filed a Florida Fair Housing Act complaint with the Florida

Commission on Human Relations (the "Commission") based on Township's decision to sell the Omni Apartments to Allied rather than to him. The Debtor claims Township refused to sell him the Omni Apartments because of his race. The Commission ultimately determined that the Debtor failed to state a claim under the Florida Fair Housing Act, because he failed to demonstrate that he intended to live in one of the individual apartment units. The Debtor "appealed" the Commission's denial of his Fair Housing Act claim to the Florida Division of Administrative Hearings, and an administrative law judge likewise recommended that the Debtor's claim be dismissed. The Debtor appealed the administrative law judge's ruling to Florida's Second District Court of Appeal, which affirmed the ruling of the administrative law judge.

Undeterred, the Debtor then filed a complaint under the Florida Fair Housing Act in the Thirteenth Judicial Circuit Court, Hillsborough County, Florida (the "State Court"). The State Court ruled that, because the Debtor's Fair Housing Act claim was based upon the same facts as the claim he had previously filed with the Commission, he was collaterally estopped from relitigating those issues again. The State Court entered summary judgment against the Debtor.

Next, the Debtor sued Township and others in the District Court—this time for racial discrimination under 42 U.S.C. §§ 1981 and 1982.<sup>3</sup> Although the claims in the Debtor's federal court complaint were different, the facts underlying them were the same: the Debtor claimed Township refused to sell him the Omni Apartments because of his race. Shortly after filing his federal court complaint, the Debtor filed a motion for a determination that Township was collaterally estopped from relitigating facts that the Debtor claimed Township had admitted in the administrative proceeding: that Township had denied that the Omni Apartments were available for sale, had set different terms and conditions for the Debtor's contract, and had ultimately refused to sell the Omni Apartments to the Debtor because of his race. Although the Debtor attached exhibits in support of his motion, none of the exhibits supported the Debtor's contention. At best, it appeared that Township had agreed that the sole issue before the administrative law judge on appeal was whether the Debtor intended to reside in an individual apartment unit—the factual basis for the Commission's denial of his Fair Housing Act claim. The District Court ultimately denied the Debtor's collateral estoppel motion.

<sup>1</sup> Doc. No. 13.

<sup>2</sup> *Id.* at 1.

<sup>3</sup> Bafford v. Township Apartments Associates, Ltd., et al., Case No. 8:06-cv-00657-JDW-TGW.

Later, all of the various defendants in to the District Court action filed motions for summary judgment. In response to Township's summary judgment motion, the Debtor again raised the collateral estoppel issue. And again, the District Court rejected the argument, ultimately entering final summary judgment in favor of Township and the other defendants on the Debtor's claims. Because Township prevailed on its summary judgment motion, the District Court awarded it \$1,885.00 in costs (the District Court Judgment).

The Debtor appealed the District Court Judgment to the Eleventh Circuit Court of Appeals. The sole basis for the Debtor's appeal was that the District Court lacked subject-matter jurisdiction to award costs to Township. The Eleventh Circuit Court of Appeals rejected the Debtor's arguments as "baseless," and dismissed his appeal as "frivolous."<sup>4</sup>

### Conclusions of Law

The Debtor now asks this Court to vacate the very same judgment that the Eleventh Circuit has already refused to overturn. According to the Debtor, this Court can vacate the District Court Judgment because that judgment is void. The Debtor cites numerous cases for his proposition that a district court must vacate a judgment that is void.<sup>5</sup> While this is a true statement of the law, in this case the Debtor cannot establish that the District Court Judgment is void. While the Debtor claims that the District Court lacked subject-matter jurisdiction to award costs because it "was without jurisdiction to sit in appellate review of the state court judgment and overturn it," the Debtor's argument is flawed for several reasons, not the least of which is that the District Court did not "sit in review of" or "overturn" any state court judgment.

Indeed, the Debtor's entire argument rests on a fundamental misunderstanding of what happened in the prior administrative, state court, and District Court proceedings. First, the prior administrative and state court claims (alleged violation of the Florida Fair Housing Act) were completely different from the Debtor's claims in the District Court (alleged violation of 42 U.S.C. §§ 1981 and 1982), and the District Court did not review any rulings of the administrative law judge or state court. Second, the Commission, the administrative law judge, the appellate court reviewing the administrative law judge, and the state circuit court all ruled *against* the Debtor. The District Court's

entering a judgment for costs against the Debtor does not constitute "overturning" any of the previous decisions.

The Debtor filed numerous motions for reconsideration and appeals challenging, among other orders, the District Court's orders granting summary judgment in favor of Township and awarding Township costs. So many, in fact, that the District Court generally prohibited the Debtor from filing any motions for reconsideration without leave of court, and absolutely prohibited him from filing any motions for reconsideration of its summary judgment order. Likewise, the Eleventh Circuit directed the Clerk of Court not to accept any more filings from the Debtor in his appeal.

And this leads to the fundamental problem with the Debtor's Motion: the Debtor wants this Court to exercise appellate jurisdiction over the District Court Judgment because all of his other avenues for relief have been closed off. But this Court cannot do so for two reasons: first, the Debtor is barred by the doctrines of collateral estoppel and *res judicata* from relitigating the identical issue that the Eleventh Circuit Court of Appeals previously considered and rejected,<sup>6</sup> and second, this Court does not have appellate jurisdiction.<sup>7</sup> Accordingly, even if there were some merit to the Debtor's argument that the District Court Judgment is void (and the Court does not believe that there is), this Court is powerless to review that judgment.

Accordingly, it is

### ORDERED:

1. The Debtor's Motion is hereby DENIED.
2. This Order is without prejudice to the Debtor's filing a motion under Bankruptcy Code §522(f) to avoid any lien on his homestead.

**DONE and ORDERED** in Chambers at Tampa, Florida, on January 28, 2013.

/s/  
Caryl E. Delano  
United States Bankruptcy Judge

<sup>4</sup> Dist. Ct. Doc. No. 378 at 2.

<sup>5</sup> Doc. No. 13 at 2-4.

<sup>6</sup> *In re Anson*, 457 B.R. 130, 135 (Bankr. M.D. Fla. 2011) (explaining that collateral estoppel prevents parties from relitigating issues that were actually litigated and decided in a previous suit while *res judicata* bars a party from raising a claim in subsequent litigation that was—or could have been—raised in a prior suit); *In re Bilzerian*, 276 B.R. 285, 291-92 (Bankr. M.D. Fla. 2002) (setting forth elements of collateral estoppel).

<sup>7</sup> 11 U.S.C. § 1334(b); 28 U.S.C. § 157.