

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-30216

In The Matter Of: CLAY A WAGUESPACK, SR;
LOUISE HELEN WAGUESPACK

Debtors

CLAY A WAGUESPACK SR;
LOUISE HELEN WAGUESPACK

Appellants

versus

KEITH RODRIGUEZ, Trustee

Appellee

Appeal from the United States District Court
for the Western District of Louisiana
(97-CV-1965)

January 8, 1999

Before HIGGINBOTHAM, DUHÉ, and DeMOSS, Circuit Judges.

HIGGINBOTHAM, Circuit Judge:*

After the decisions by the bankruptcy court and the United States District Court, Congress enacted the Religious Liberty and Charitable Donation Protection Act of 1998. We are loathe to apply the new statute without the benefit of its application by the trial courts.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

It develops that we need not address the new statute for the reason that this court lacks jurisdiction. The district court's order was not final for purposes of § 158. "For purposes of § 158(d), a determination of the district court is not 'final' unless the underlying order of the bankruptcy court is final." Flor v. BOT Financial Corp., 79 F.3d 281, 283 (2d Cir. 1996); Pleasant Woods Assocs. Ltd. Ptshp. v. Simmons First Nat'l Bank, 2 F.3d 837, 838 (8th Cir. 1993).

Appeal DISMISSED for want of jurisdiction.