

**FILED**

September 19, 2006

Charles R. Fulbruge III  
Clerk

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 06-20161  
Summary Calendar

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IN THE MATTER OF: BAQAR SHAH,

Debtor.

MAHENDRA MEHTA,

Appellant,

VERSUS

KENNETH HAVIS, Chapter 7 Trustee,

Appellee.

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Appeal from the United States District Court  
For the Southern District of Texas  
No. 05 CV 3370

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Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Appellant Mahendra Mehta challenges the district court's dismissal of his bankruptcy appeal. We affirm.

Our review of the record reveals that Mehta has tested the patience of the bankruptcy court and the district court throughout the history of this protracted litigation. He has filed numerous

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

frivolous motions, frivolous appeals from rulings on those frivolous motions and has refused to follow orders of the bankruptcy court.

The activity giving rise to this appeal reflects the nature of some of this conduct. The bankruptcy court entered a sanctions order in June 2005. In July, the trustee moved for an order of civil contempt against Mehta for deliberately refusing to comply with the June sanctions order. Mehta filed no timely response to this order. After at least two continuances at Mehta's behest, the bankruptcy court held a hearing on the motion on September 19, 2005. Mehta had been ordered to personally appear at that hearing. Mehta did not appear at the hearing as ordered and his counsel offered no substantive evidence at the hearing. The bankruptcy court granted the trustee's motion, held Mehta in civil contempt and sanctioned him. On September 29, 2005, Mehta appealed that order to the district court. The appeal was docketed on October 26, 2005. Mehta's brief was due on November 10, 2005 under Bankruptcy Rule 8009(a)(1).

When Mehta's brief had not been filed on December 29, 2005, the trustee filed a motion to dismiss the appeal for failure to prosecute. The district court granted the motion and dismissed the appeal on February 9, 2006. Mehta now appeals that order.

Given the history of Mehta's frivolous appeals and missed deadlines in this litigation, the district court did not abuse its discretion in dismissing the appeal. The only excuse Mehta offers

for failing to file his appeal brief is that he did not have a transcript of the bankruptcy court proceedings. But it was up to Mehta to arrange for the transcript and he does not argue that he requested the transcript.

Given the history of Mehta's refusal to obey court orders, his delaying tactics, and missed deadlines, the district court did not err in dismissing this appeal.<sup>2</sup> See Pyramid Mobile Homes, Inc. v. Speake, 531 F.2d 743, 745 (5th Cir. 1976) (per curiam).

AFFIRMED.

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<sup>2</sup>Although it is a close case, we decline to award sanctions for a frivolous appeal. Mehta is cautioned, however, that this court's patience is also wearing thin.