

June 15, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-50673

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IN RE: MARSHALL'S VISTA LTD; MARSHALL'S HARBOR LTD,  
Debtors.

KEMP W. GORTHEY,

Appellant,

v.

VESTIN MORTGAGE, INC.,

Appellee.

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Appeal from the United States District Court  
for the Western District of Texas, Austin  
USDC No. 1:05-CV-648  
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Before GARWOOD, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:\*

The United States Bankruptcy Court for the Western District of Texas, Austin Division, issued an order of sanctions against Appellant, Kemp Gorthey, who is lead counsel for Point Construction, Inc. Gorthey subsequently appealed to the United States District Court for the Western District of Texas, and the district court affirmed the sanctions order. Gorthey timely appeals to this Court.

The facts of this case are fully set forth in the memorandum

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

opinions of both the bankruptcy court and district court. A bankruptcy court's decision to impose sanctions is discretionary, therefore appellate review is for an abuse of discretion. *In re First City Bancorporation*, 282 F.3d 864, 867 (5th Cir. 2002).

The bankruptcy court determined that (1) the claims raised by Gorthey for a constitutional and/or statutory lien had no basis in fact or law; (2) the caselaw cited by Gorthey did not support a reasonable argument for the extension of existing law; (3) Gorthey's claims were objectively frivolous and raised only for the improper purpose of delay; and (4) Gorthey failed to adequately review the facts and evidence supporting his claims.

After considering the oral arguments and reviewing the briefs and record on appeal, we are not persuaded that the bankruptcy court abused its discretion by issuing sanctions against Gorthey. Accordingly we AFFIRM.

AFFIRMED.