

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 18-50310
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 5, 2018

Lyle W. Cayce
Clerk

In the Matter of: ABIE WOLF

Debtor

ABIE WOLF, also known as Abraham C. Wolf, formerly doing business as
Mac H. Auto General Mechanic and Repair,

Appellant

v.

RANDOLPH N. OSHEROW,

Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:17-CV-281

Before KING, SOUTHWICK, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Abie Wolf, proceeding pro se, appeals two orders issued by the
bankruptcy court below. The first order granted attorney's fees to Kemp Smith

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 R. 47.5, the court has determined that this opinion should not
be published and is not precedent except under the limited circumstances set forth in 5TH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

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LLP, counsel to the Chapter 7 Trustee in this matter. The second order approved the Trustee's employment of an accountant. Wolf appealed both of these orders to the U.S. District Court for the Western District of Texas, which affirmed on April 6, 2018.

With regard to the first order, we review a bankruptcy court's award of compensation to professionals for abuse of discretion, although we review the legal conclusions that guided the court's determination de novo. *Asarco, L.L.C. v. Barclays Capital, Inc. (In re Asarco, L.L.C.)*, 702 F.3d 250, 257 (5th Cir. 2012). The bankruptcy court applied the framework articulated in *CRG Partners Grp. v. Neary (In re Pilgrim's Pride Corp.)*, 690 F.3d 650 (5th Cir. 2012) to determine that the award of compensation to Kemp Smith LLP was appropriate. In his briefing on appeal, Wolf does not argue that this was the wrong analysis, nor does he explain why the compensation awarded in this case was improper. Nonetheless, we review the record to determine if the bankruptcy court abused its discretion.

Awards of compensation to professionals in bankruptcy proceedings are governed by 11 U.S.C. § 330. That provision allows for "reasonable compensation for actual, necessary services rendered by the . . . attorney," as well as "reimbursement for actual, necessary expenses." § 330(a)(1). In determining whether services are reasonable, the statute instructs courts to consider a number of factors, including the time spent on services, the rates charged, and whether the services were necessary or beneficial to the completion of the case. § 330(a)(3). In conducting its analysis, courts may use a lodestar method for calculating attorney's fees to yield a "presumptively reasonable fee," and then adjust the fee upwards or downwards based on certain discretionary factors, including those listed above. *Id.* at 664. The lodestar amount is calculated by multiplying the number of hours reasonably expended by the prevailing rate in the community for similar legal work. *Id.* at 655. Here, the attorneys wrote

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in their application for compensation that their rates in this case were similar to those customarily charged by comparably skilled practitioners in El Paso. Additionally, one of the attorneys worked at a reduced rate. This value was then multiplied by the time spent by the attorneys in providing legal services to the estate and added to their out-of-pocket expenses. Appended to the application were hours sheets detailing the work that was done and the amount of time it took. When it approved the application at a later hearing, the bankruptcy court recounted the work the attorneys did and found that the attorneys “generated substantial funds for the bankruptcy estate,” and did so “at a reduced hourly rate.” The bankruptcy court did not adjust this fee upwards or downwards, and the record does not reflect any reason that would require it to do so. As such, we find that the bankruptcy court did not abuse its discretion in its award of fees to Kemp Smith LLP.

With regard to the second order, this court is unable to discern in Wolf’s briefing any meritorious arguments related to the Trustee’s employment of an accountant. The Bankruptcy Code allows a trustee, with the bankruptcy court’s approval, to employ professionals, including accountants. 11 U.S.C. § 327(a). Aside from a conclusory remark that the Trustee violated § 327(a) and § 330(a), Wolf fails to explain why this appointment was improper, nor does this court find any legal basis for such a claim. There is no evidence that the accountant holds an interest adverse to the estate and, as the bankruptcy court found, the employment of an accountant was necessary to the Trustee’s discharge of his obligation to file tax returns on behalf of the estate. Wolf’s appeal of this order therefore similarly lacks merit.

Accordingly, the judgment of the district court is **AFFIRMED**.