

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-8557  
Summary Calendar

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IN THE MATTER OF:  
JEFFERSON EMISA GEESLIN,  
  
Debtor.

JEFFERSON EMISA GEESLIN,  
  
Appellant,

VERSUS

DAVIS & DAVIS, P.C.,  
  
Appellee.

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Appeal from the United States District Court  
for the Western District of Texas  
(A-92-CV-426)

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(January 4, 1994)

Before SMITH, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:\*

The appellant, Jefferson Geeslin, appeals a determination of nondischargeability made by the bankruptcy court and affirmed by the district court under 11 U.S.C. § 523(a)(4), regarding defal-

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\* Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

cation by a fiduciary. Geeslin presents two issues on appeal: whether the appellee, Davis & Davis, P.C., has standing to assert nondischargeability of the state court judgment and, assuming the answer is yes, whether the bankruptcy court was clearly erroneous in finding defalcation sufficient to bar discharge.

We affirm on the basis of the findings and conclusions of the bankruptcy court, incorporated in its "Order and Judgment," and essentially for the reasons set forth in the opinion of the district court entered on July 9, 1993. The district court properly concluded, on the issue of standing, that the appellee, as "the assignee of a judgment is assigned all the rights the assignor had under the Bankruptcy Code . . . , "including the right to bring a non-dischargeability suit under Section 523." The district court correctly noted that Geeslin's actions in mismanaging the estate "had `the effect of being gross misconduct or gross mismanagement in the administration of the Estate.'" (Quoting the order of the state probate court.) The district court concluded that Geeslin's actions, which the court lists in detail, "constitute a `willful neglect' of his duties as executor." "A defalcation is a willful neglect of duty, even if not accompanied by fraud or embezzlement." In re Bennett, 989 F.2d 779, 790 (5th Cir. 1993).

The judgment of the district court, affirming the order of the bankruptcy court, is AFFIRMED.