

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 29, 2023

Lyle W. Cayce
Clerk

No. 21-60802

EILEEN N. SHAFFER, *Chapter 7 Trustee for* THE BANKRUPTCY
ESTATE OF DEBTORS DANNY & JUDY HALL,

Plaintiff—Appellee,

versus

PRIORITYONE BANK,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:15-CV-304

Before DAVIS, ELROD, and HAYNES, *Circuit Judges.*

PER CURIAM:*

The opinion issued March 9, 2023, is withdrawn by the panel, and the following is issued in its place:

Acting as trustee of a bankruptcy estate, Eileen Shaffer received a favorable arbitration award against PriorityOne Bank. The Bank sought to vacate that award in the district court, arguing that the arbitrator had a

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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conflict of interest. The district court held that even though the arbitrator *did* have a conflict, the Bank had constructive knowledge of that conflict and therefore had waived any ability to challenge the award on that ground. Having considered the briefing, oral argument, and relevant portions of the record, we conclude that the district court did not commit a reversible error in refusing to vacate the award on conflict-of-interest grounds.

The district court also held that the Bank's argument that the arbitrator manifestly disregarded Mississippi law cannot stand as a permissible statutory ground for vacatur under the Federal Arbitration Act. Even assuming without deciding that manifest disregard of the law *can* be a basis for challenging an award under the FAA as an argument that an arbitrator "exceeded his powers" under 9 U.S.C. § 10(a), the Bank fails to show that the arbitration award was in manifest disregard of Mississippi law.

For the reasons stated above, we AFFIRM. PriorityOne Bank's petition for panel rehearing is DENIED as moot.