

United States Court of Appeals for the Fifth Circuit

No. 26-30005

United States Court of Appeals
Fifth Circuit

FILED

September 4, 2026

Lyle W. Cayce
Clerk

ANNIE MARBURY,

Plaintiff—Appellant,

versus

UNITED NATIONAL INSURANCE COMPANY,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:22-CV-2692

Before JONES, SOUTHWICK, and WILLETT, *Circuit Judges*.

PER CURIAM:*

This case comes before the court for a second time. *See Marbury v. United Nat'l Ins. Co. (Marbury I)*, No. 24-30599, 2025 WL 2126664 (5th Cir. July 29, 2025). Unfortunately, we must VACATE and REMAND again.

BACKGROUND

A more detailed factual history is laid out in this court's previous opinion. *Id.* at *1-2. Relevant here, Marbury obtained an insurance policy

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

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from United for a house owned by and affiliated with the Church of Jesus Christ House of Prayer (“Church”). She co-founded and remains the Church’s president and registered agent. *Id.* at *1. After Hurricane Laura extensively damaged the property in August 2020, Marbury filed a claim with United and received \$47,889.00. *Id.* Marbury filed the underlying lawsuit when she sought an additional \$192,425.05 and United never tendered payment. *Id.*

United moved for summary judgment, arguing, *inter alia*, that “Marbury’s claims failed as a matter of Louisiana law because she lacked the requisite ‘insurable interest’ in the [p]roperty.” *Id.* at *2. United contended that Marbury does not have an “economic interest in the property, as she has not personally financially contributed to [its] maintenance or construction[.]” *Id.* (alterations in original).

The district court granted summary judgment in favor of United, finding that Marbury did not have an insurable interest in the property. *Id.* The district court “deemed [] Marbury’s testimony ‘self-serving[,]’ reasoning that she ‘presented no summary judgment evidence that she *personally* has provided funds for maintenance or other financial contribution to benefit the house.’” *Id.* (second alteration in original). Marbury appealed to this court. *Id.*

In *Marbury I*, this court explained that “if [] Marbury can evince a substantial economic interest in the [p]roperty—one that results in exposure ‘to either direct, immediate or potential financial loss’—her interest is insurable even if the [p]roperty is owned and controlled by the Church.” *Id.* at *4 (quoting *Armenia Coffee Corp. v. Am. Nat’l Fire Ins. Co.*, 2006-0409, p. 9 (La. App. 4 Cir. 11/21/06), 946 So. 2d 249, 254). The court determined that the district court erred by “summarily discounting [] Marbury’s deposition testimony” because it did not mention or assess potential

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deficiencies that would make the testimony insufficient to create a fact issue, such as conclusory or vague contents. *Id.* at *5. Also, the court “decline[d] to consider, in the first instance, whether [] Marbury’s testimony creates a genuine factual dispute and instead remand[ed] th[e] case to the district court for further proceedings.” *Id.* The district court was directed to “order additional discovery limited to [] Marbury’s economic interest in the [p]roperty, including payment of the mortgage, along with other forms of financial investment, such as furnishings.” *Id.*

JUDGE WILSON concurred in the judgment, explaining that while he believes the district court “granted summary judgment for a permissible reason,” he “[n]evertheless” agreed with the majority that “Marbury’s ambiguous testimony is sufficient to preclude summary judgment at this juncture.” *Id.* at *6 (WILSON, J., concurring in the judgment).

The district court ordered limited discovery and additional briefing. Marbury provided a supplemental brief and evidence, arguing that she had an insurable interest through direct personal financial investment and as an agent for the Church. The evidence included a sworn affidavit, personal checks, and a CashApp statement from Marbury’s daughter-in-law’s account showing payments to “Jasmine” for lawn services. In her affidavit, Marbury stated that she paid the mortgage and insurance premiums for the property with her own personal funds and she paid to furnish the property with her own personal funds. United filed a reply,¹ and Marbury moved to strike United’s attached exhibit and any argument relying on it because it was

¹ The district court originally requested that United file a “response.” After Marbury’s motion to extend the limited discovery deadline was granted, the district court began referring to United’s filing as a “reply.”

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not properly offered during any discovery period. The district court denied the motion to strike.

The district court again granted summary judgment to United. It explained that the checks Marbury relied on were (1) made payable to the Church, not the lender; (2) written to the Church as a tithe; (3) not for the same amount as the actual mortgage note; and (4) dated after the time of the loss. The district court also noted that the CashApp payments were after the date of loss “and do not indicate where the lawn services are being performed.” Therefore, the district court concluded that Marbury had “not submitted any summary judgment evidence to indicate that she had a substantial economic interest in the safety or preservation of the property when the policy was written or on the date of the loss.” The district court explained that it “cannot assume that the post-loss checks are indicative of pre-loss payments, even if the [c]ourt made the assumption that her tithing was to pay the mortgage and insurance premiums.” Similarly, the district court found Marbury had “not submitted any summary judgment evidence to establish that she provided the furniture for the property.” As to Marbury’s second argument regarding her interest as an agent of the Church, the district court disagreed because “[b]eing an agent for a principal[] is not a security interest and does not create a security interest in the property.”² In sum, the district court determined that Marbury “ultimately failed to show that she is exposed to financial, pecuniary or economic loss, hazard, risk or liability.”

STANDARD OF REVIEW

We again review the summary judgment *de novo*, “applying the same standard as the district court and viewing the evidence in the light most

² Marbury did not challenge this finding on appeal.

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favorable to the non-moving party.” *Am. Fam. Life Assurance Co. of Columbus v. Biles*, 714 F.3d 887, 895 (5th Cir. 2013) (per curiam). “When assessing whether a dispute to any material fact exists, we consider all of the evidence in the record but refrain from making credibility determinations or weighing the evidence.” *Turner v. Baylor Richardson Med. Ctr.*, 476 F.3d 337, 343 (5th Cir. 2007).

DISCUSSION

In this second appeal, Marbury argues, *inter alia*,³ that the district court “again treated [] Marbury’s testimony as insufficient unless supported by independent documentation and corroboration from the relevant pre-loss period.” To the extent that the district court ignored her affidavit testimony in its ruling, this court agrees.

As the court provided in *Marbury I*:

Our caselaw makes clear that “‘self-serving’ affidavits and depositions may create fact issues even if not supported by the rest of the record.” *Guzman v. Allstate Assurance Co.*, 18 F.4th 157, 160 (5th Cir. 2021). And if “otherwise competent[,]” such deposition testimony “may not be discounted just because [it] happen[s] to be self-interested.” *Id.* at 160–61. Contrary to the

³ The court also rejects Marbury’s argument that the district court abused its discretion by considering an untimely reply and denying a motion to strike the declaration filed with United’s reply. Although United did not respond to this argument, it is meritless. The district court did not abuse its discretion in extending United’s deadline. The district court stated that a motion for an extension of time to file the reply was granted via electronic order. Marbury disputes the district court’s characterization of its own order. But even if the reply was untimely, the district court had discretion whether to consider it. District courts enjoy broad discretion to extend deadlines and consider untimely filings. *See Hetzel v. Bethlehem Steel Corp.*, 50 F.3d 360, 367 (5th Cir. 1995). As for the motion to strike, we do not discern any reversible error because Marbury has failed to identify any “substantial prejudice” traceable to the district court’s consideration of the evidence. *Huynh v. Walmart Inc.*, 30 F.4th 448, 458 (5th Cir. 2022).

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district court's analysis, including its imposition of a corroboration-requirement, "[t]he mere fact that a statement is self-serving does not reduce its value" and, "in the summary judgment context, '[s]imply being 'self-serving' . . . does not prevent a party's assertions from creating a dispute of fact.'" *Salazar v. Lubbock Cnty. Hosp. Dist.*, 982 F.3d 386, 392 (Ho, J., concurring) (alteration in original) (quoting *Bargher v. White*, 928 F.3d 439, 445 (5th Cir. 2019)). True, "we have held self-serving affidavits or depositions insufficient to create a fact issue . . . because their contents were either conclusory, vague, or not based on personal knowledge." *Guzman*, 18 F.4th at 161 (citations omitted).

2025 WL 2126664, at *5.

As indicated above, "there is a level of conclusoriness below which an affidavit must not sink if it is to provide the basis for a genuine issue of material fact." *Orthopedic & Sports Inj. Clinic v. Wang Lab'ys, Inc.*, 922 F.2d 220, 224 (5th Cir. 1991). "[U]nsupported . . . affidavits setting forth 'ultimate or conclusory facts and conclusions of law' are insufficient to either support or defeat a motion for summary judgment." *Galindo v. Precision Am. Corp.*, 754 F.2d 1212, 1216 (5th Cir. 1985) (quoting CHARLES A. WRIGHT, ARTHUR R. MILLER & MARY K. KANE, *FEDERAL PRACTICE AND PROCEDURE: CIVIL 2D* § 2738 (1983)). Whether an affidavit is vague or conclusory depends on the specific facts and claims of each case. *See, e.g., Kariuki v. Tarango*, 709 F.3d 495, 505 (5th Cir. 2013) (finding no genuine issue of material fact from vague and general statements about moral character); *Rushing v. Kan. City S. Ry. Co.*, 185 F.3d 496, 513–14 (5th Cir. 1999) (finding specific sworn testimony not conclusory).

As in *Marbury I*, the district court "disregarded [] Marbury's [affidavit] *without* mentioning, let alone assessing, these potential deficiencies." *Marbury I*, 2025 WL 2126664, at *5. The affidavit was not discussed apart from one sentence noting the affidavit was "submit[ted]."

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The district court’s statement that “*everything* [Marbury] has submitted” to support an insurable interest “is post-Hurricane Laura” shows that her affidavit and deposition were apparently ignored. (emphasis added). If the district court did consider Marbury’s affidavit or deposition and found both to be insufficient, it did so without engaging in any analysis to determine whether her “evidence” was vague or conclusory. *See Wildbur v. ARCO Chem. Co.*, 974 F.2d 631, 644 (5th Cir. 1992) (this court “require[s] that a district court explain its reasons for granting a motion for summary judgment in sufficient detail”).

We do not disagree with the district court’s decision to disregard for various reasons the documentary evidence that Marbury submitted. But its failure to analyze her affidavit and testimony under the summary judgment standards is still reversible error. We “decline to consider, in the first instance,” whether the testimonial evidence submitted by Marbury creates a genuine factual dispute. *Marbury I*, 2025 WL 2126664, at *5. This case must be remanded to conform with the rulings here and in *Marbury I*.

The judgment is VACATED and REMANDED for further proceedings consistent with this opinion.