United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED
August 27, 2026

Lyle W. Cayce
Clerk

No. 26-50148
Summary Calendar

In the Matter of Salubrio, L.L.C.,

Debtor,

Douglas K. Smith, M.D.,

Appellant,

versus

Eric Terry,

Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:25-CV-824

Before Haynes, Graves, and Ramirez, *Circuit Judges*.

Per Curiam:[*]

Dr. Douglas Smith appeals the district court's affirmance of the bankruptcy court's denial of his motion to, *inter alia*, set aside various orders

[*] This opinion is not designated for publication. *See* 5th Cir. R. 47.5.

for alleged fraud upon the court. This is the latest in a long line of appeals by Smith arising from the bankruptcy litigation below. *See, e.g.*, *Smith v. Terry* (*In re Salubrio, L.L.C.*), No. 23-50288, 2024 WL 1795773 (5th Cir. Apr. 25, 2024) (per curiam) (unpublished); *Smith v. Terry* (*In re Salubrio, L.L.C.*), No. 24-50272, 2024 WL 4834238 (5th Cir. Nov. 20, 2024) (per curiam) (unpublished); *Smith v. MedLegal Sols., Inc.* (*In re Smith*), No. 24-50494, 2025 WL 985934 (5th Cir. Apr. 2, 2025) (per curiam) (unpublished). For the following reasons, we AFFIRM.

Although Smith's arguments are difficult to follow, "we liberally construe briefs of *pro se* litigants," such as Smith, "and apply less stringent standards to parties proceeding *pro se* than to parties represented by counsel." *Grant v. Cuellar*, 59 F.3d 523, 524 (5th Cir. 1995) (per curiam). However, "*pro se* parties must still brief the issues and reasonably comply with the standards of Rule 28." *Id.*; *see* FED. R. APP. P. 28(a)(8)(A) (explaining that an "appellant's brief must contain . . . appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies"). To that end, "[a] party forfeits an argument by failing to adequately brief the argument in its opening brief on appeal." *Smith v. Sch. Bd. of Concordia Par.*, 88 F.4th 588, 594 (5th Cir. 2023) (citation modified). Indeed, as we have explained, "random and unfocused references that do not cite the record or relevant caselaw are insufficient briefing to preserve an issue for our review." *Carl E. Woodward, L.L.C. v. Acceptance Indem. Ins. Co.*, 743 F.3d 91, 96 (5th Cir. 2014). Even liberally construing his opening brief, *see Grant*, 59 F.3d at 524, we conclude that Smith forfeits most of his arguments on appeal for lack of adequate briefing, *see Sch. Bd. of Concordia Par.*, 88 F.4th at 594; *Carl E. Woodward, L.L.C.*, 743 F.3d at 96.

Smith seems to argue that Eric Terry, the Chapter 7 Trustee, has unclean hands due to "post-abandonment, warrantless misappropriation of" certain estate property. As a result, Smith appears to contend, the bankruptcy court could not enforce a "gatekeeper order" against him or grant res judicata-based relief to Terry. *See generally In re Salubrio, L.L.C.*, 2024 WL 1795773, at *1 (discussing the bankruptcy court's "gatekeeper order," which "required court approval before Dr. Smith could file any future litigation against the individuals and entities involved in the main bankruptcy proceeding"). However, Smith cites to only a decades-old California state court opinion to support his assertion that a witness's "admission," that she "received payment" from Terry for assessing certain "material" taken from Smith's office, "constituted prima facie evidence of unclean hands." He cites no case from our circuit, or any other federal court, to support his argument that the complained-of conduct qualified as "prima facie evidence of unclean hands." Nor does he clarify *where* this California state court opinion supports this contention.

While we liberally construe his brief, *see Grant*, 59 F.3d at 524, we conclude that Smith has forfeited this argument due to inadequate appellate briefing, *see Carl E. Woodward, L.L.C.*, 743 F.3d at 96 (explaining that "random and *unfocused references* that do not cite . . . *relevant* caselaw are insufficient briefing to preserve an issue for our review" (emphasis added)); *see also In re Salubrio, L.L.C.*, 2024 WL 4834238, at *1 n.1 (reasoning that Smith forfeited his "bald assertions" that "the Trustee ha[d] unclean hands, and thus c[ould not] assert judicial estoppel"). As we have previously noted, "[c]onsidering that Dr. Smith continues to file procedurally improper and frivolous filings, the gatekeeping order here is an appropriate exercise of the bankruptcy court's inherent power to interpret and enforce its orders."[1] *In re Salubrio, L.L.C.*, 2024 WL 1795773, at *2 (citing 11 U.S.C. § 105).

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[1] While Smith baldly, and briefly, asserts that the bankruptcy court's gatekeeper order is "unconstitutional" based on our opinion in *Highland Capital Management Fund*

In sum, Smith's arguments have been forfeited, already decided upon, or are unavailing. Therefore, we AFFIRM.

Advisors, L.P. v. Highland Capital Management, L.P. (*In re Highland Capital Management, L.P.*), 132 F.4th 353 (5th Cir. 2025), *cert. denied sub nom.*, *Highland Capital Management v. Nexpoint Advisors*, No. 25-119, 2026 WL 1855094 (U.S. June 29, 2026), he fails to substantiate this contention or explain why that might be so. Further, we have previously considered Smith's arguments that the gatekeeper order here was "an improper injunction" and, as noted above, concluded that it was "an appropriate exercise of the bankruptcy court's inherent power." *In re Salubrio, L.L.C.*, 2024 WL 1795773, at *2 (citing 11 U.S.C. § 105); *see id.* ("[I]t is well established that 'bankruptcy courts can perform a gatekeeping function.'" (quoting *In re Highland Cap. Mgmt., L.P.*, 48 F.4th 419, 439 (5th Cir. 2022))). Moreover, insofar as Smith would seek to assert claims against Terry, "we have acknowledged that an individual or entity may be required to obtain leave of the bankruptcy court before filing claims in another court against the trustee." *In re Highland Cap. Mgmt., L.P.*, 132 F.4th at 359 (citation modified). Separately, to the extent Smith attempts to argue that the accounts receivable in the bankruptcy estate belong to him, he is judicially estopped from asserting that such accounts are his. *See In re Salubrio, L.L.C.*, 2024 WL 4834238, at *1.