

September 27, 2013

Blaine F. Bates  
Clerk

NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE TENTH CIRCUIT**

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IN RE STEVEN WAYNE NORWOOD,  
Debtor.

BAP No. CO-12-101

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STEVEN WAYNE NORWOOD,  
Appellant,

Bankr. No. 12-23027  
Chapter 7

v.

OPINION\*

UNITED STATES TRUSTEE, SIMON  
E. RODRIGUEZ, Chapter 7 Trustee,  
HARVEL 821HUMMER LLC,  
SIGTECH, INC., KERMIT HARVEL,  
and CAROLYN HARVEL,

Appellees.

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Appeal from the United States Bankruptcy Court  
for the District of Colorado

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Before NUGENT, KARLIN, and SOMERS, Bankruptcy Judges.

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PER CURIAM.

Debtor-Appellant appeals a November 13, 2012, District of Colorado Bankruptcy Court order requiring him to pay \$12,000 to the Chapter 7 trustee and vacating a prior order that waived the Chapter 7 filing fee. Appellant also seeks dismissal of his bankruptcy case so that he can achieve a resolution through mediation or conclusion of his pending state court case. Due to the lack of an

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\* This unpublished opinion may be cited for its persuasive value, but is not precedential, except under the doctrines of law of the case, claim preclusion, and issue preclusion. 10th Cir. BAP L.R. 8018-6.

adequate record on appeal, we affirm the Bankruptcy Court's November 13, 2012, order.<sup>1</sup>

The appealed order is quite brief and merely sets forth the court's ultimate decisions. It does not include a recitation of the court's findings of fact or conclusions of law, instead electing to rely on "the reasons stated on the record"<sup>2</sup>—a perfectly acceptable way to expedite a decision on a matter before the court. As a result, the only way this court can meaningfully review the appealed order is to review the transcript of the proceedings, including the oral findings and conclusions of law articulated by the trial judge on the record. But Appellant elected not to include the relevant portion of the record in his appendix and stated therein: "Oral proceedings and transcripts are NOT part of the designated record, because trustee obtained some of these under duress and threat to Norwood."<sup>3</sup> Because Appellant elected not to provide the required transcript, we are deprived of the ability to review the Bankruptcy Court's decision.

It is an appellant's burden to establish error on appeal and to provide the appellate court with an adequate record for review.<sup>4</sup> As part of that duty, both the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court require that the appellate record include all transcripts necessary for the appellate court's

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<sup>1</sup> The parties did not request oral argument, and after examining the briefs and appellate record, the Court has unanimously determined that oral argument would not materially assist in the determination of this appeal. Fed. R. Bankr. P. 8012. The case is therefore ordered submitted without oral argument.

<sup>2</sup> Order on Pending Motions, *in App.* at 374. Because the Appellant did not consistently consecutively paginate his appendix, page number references to the App. are to the PDF page numbers as they appear in the appellate record. Thus, the reference "App. at 374" refers to page 374/1178 of the PDF document.

<sup>3</sup> Doc. 60 at 1177.

<sup>4</sup> *In re Nordin*, CO-12-041, 2013 WL 936370, at \*5 (10th Cir. BAP Mar. 12, 2013) (it is appellant's burden to establish error); *McEwen v. City of Norman*, 926 F.2d 1539, 1550 (10th Cir.1991) (appellant has duty to supply adequate record for review).

review.<sup>5</sup> Because Appellant's failure to provide a transcript makes review impossible, the November 13, 2012, order of the District of Colorado Bankruptcy Court is summarily AFFIRMED.<sup>6</sup>

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<sup>5</sup> Fed. R. Bankr. P. 8009(b)(9); 10th Cir. BAP L.R. 8009-3(f). The Federal Rules of Appellate Procedure require the same. Fed. R. App. P. 10(b)(2).

<sup>6</sup> See, e.g., *In re Black*, 130 F. App'x 205, 207 (10th Cir. 2005) (holding that "in light of [appellant's] failure to provide the proper materials for review, the BAP was entitled to affirm the decision of the bankruptcy court."); *McEwen*, 926 F.2d at 1550.