

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Wallace v. Hastings

76 F. App'x 907 · Decided September 25, 2008

SUMMARY

The Tenth Circuit dismissed an appeal for lack of jurisdiction after a district court remanded six guardianship and trust cases to state court. The court held that the remand orders were unreviewable under 28 U.S.C. §§ 1452(b) and 1447(d), including because the remands were based on equitable grounds and procedural defects in removal.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	McKay
JURISDICTION	Federal
DECIDED	September 25, 2008
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se appellant appealed a district court minute order remanding six removed state guardianship and trust cases to state court.
STANDARD OF REVIEW	Jurisdictional review; the court independently determined whether it had appellate jurisdiction over the remand orders.
PRECEDENTIAL VALUE	Nonbinding unpublished order and judgment
PARTIES	Wallace v. Hastings

TOPICS

appellate jurisdiction

bankruptcy

subject matter jurisdiction

civil procedure

appellate procedure

PRACTICE AREAS

Bankruptcy

Civil procedure

Appellate jurisdiction

Removal and remand

QUESTIONS PRESENTED

1. Whether the Tenth Circuit had appellate jurisdiction to review district court orders remanding claims removed under the bankruptcy-removal statute.

2. Whether 28 U.S.C. § 1447(d) independently barred appellate review of remand orders based on procedural defects or lack of subject-matter jurisdiction.

HOLDINGS

1. A district court order remanding a claim or cause of action on any equitable ground under 28 U.S.C. § 1452(b) is not reviewable by the court of appeals.
2. Section 1447(d) bars appellate review of remand orders based on defects in removal procedure or lack of subject-matter jurisdiction.

KEY QUOTATIONS

“The remand at issue falls squarely within § 1447(d), and the order is not reviewable on appeal.” (76 F. App'x at 908)

“The appeal is DISMISSED for lack of jurisdiction.” (76 F. App'x at 908)

FACTUAL BACKGROUND

Wallace sought to remove six pending state guardianship and trust cases to federal court. His notices of removal referred to a bankruptcy proceeding and attempted to join all six state cases into one federal case. The district court found the notices facially infirm, noted a history of wrongful filings and abuse of process, and remanded the cases to state court on equitable and procedural grounds.

PROCEDURAL HISTORY

Wallace attempted to remove six state guardianship and trust cases to federal court, apparently invoking the bankruptcy-removal statute, 28 U.S.C. § 1452(a). The district court entered separate orders remanding each case based on equitable considerations and procedural defects in the notices of removal. The Tenth Circuit reviewed the minute order together with the six substantive remand orders and dismissed the appeal for lack of appellate jurisdiction.

DISPOSITION

dismissed

CASES CITED

- *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 129, 116 S. Ct. 494, 133 L. Ed. 2d 461 (1995)

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