UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Thomas K. Varkey v. M&T Nationwide, LLC et al.

Varkey · No. Civil Action No. 26-1645 (RK); Bankruptcy Action No. 25-22026 (MEH) · Decided March 4, 2026

SUMMARY

The United States District Court for the District of New Jersey denied Thomas K. Varkey's emergency motions for a stay pending appeal and denied his emergency motion to reopen the case as moot. The court held that Varkey failed to meaningfully demonstrate a likelihood of success on the merits of his appeal from the Bankruptcy Court's denial of vacatur of orders granting relief from the automatic stay. The court also terminated the pending motions.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Robert Kirsch
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	March 4, 2026
DOCKET	Civil Action No. 26-1645 (RK); Bankruptcy Action No. 25-22026 (MEH)
DISPOSITION	other
PROCEDURAL POSTURE	Debtor-Appellant appealed the Bankruptcy Court's order denying his motion to vacate orders granting relief from the automatic bankruptcy stay and moved in the District Court for an emergency stay pending appeal.
STANDARD OF REVIEW	A bankruptcy court's decision to grant relief from the automatic stay is reviewed for abuse of discretion. A stay pending appeal is evaluated under four factors analogous to the preliminary-injunction factors, with likelihood of success on the merits and irreparable injury being the most critical factors.
PRECEDENTIAL VALUE	Not for publication; nonprecedential memorandum order.
PARTIES	Thomas K. Varkey v. M&T Nationwide, LLC et al.

TOPICS

automatic stay · appellate procedure · bankruptcy · chapter 13 · standard of review

PRACTICE AREAS

Bankruptcy | Appellate procedure | Civil procedure | Remedies

QUESTIONS PRESENTED

1. Whether Varkey was entitled to a stay pending appeal under Federal Rule of Bankruptcy Procedure 8007(b).
2. Whether Varkey demonstrated a strong or significantly better than negligible likelihood of success on his appeal from the Bankruptcy Court's orders granting relief from the automatic stay and denying vacatur.
3. Whether the emergency motion to reopen the district-court case should be denied as moot after Varkey paid the bankruptcy-court filing fee.

HOLDINGS

1. A stay pending appeal was denied because Varkey failed to demonstrate a strong or significantly better than negligible likelihood of success on the merits, which was a threshold factor sufficient to resolve the motion without analyzing the remaining stay factors.
2. The appeal did not present a substantial likelihood of success because, once relief from the automatic stay is granted, judicial proceedings against the debtor may continue.
3. The emergency motion to reopen was denied as moot because the matter had been reopened upon Varkey's payment of the filing fee in the Bankruptcy Court.

KEY QUOTATIONS

> *“Such a stay “is an ‘extraordinary remedy.’””* (II. LEGAL STANDARD)

> *“The first two factors are the “most critical,” id. at 570, and if the movant fails to show either of the first two factors, “the stay should be denied without further analysis,””* (II. LEGAL STANDARD)

> *“If relief from the stay is granted,” as it has been here, “judicial proceedings against the debtor may then continue.””* (II. DISCUSSION)

FACTUAL BACKGROUND

On November 12, 2025, Varkey filed for Chapter 13 bankruptcy, automatically staying a New Jersey Superior Court business action and a divorce action. The Bankruptcy Court granted motions by M&T Nationwide and related appellees for relief from the stay, then denied Varkey's motion to vacate those orders. Varkey sought a stay pending appeal based largely on concerns that the divorce proceedings could result in transfers of property, but he did not meaningfully explain why he was likely to succeed on the merits of his appeal.

PROCEDURAL HISTORY

Varkey filed a Chapter 13 bankruptcy petition, which automatically stayed a New Jersey Superior Court business action and divorce action. The Bankruptcy Court granted motions by the appellees for relief from the automatic stay, then denied Varkey's motion to vacate those orders. Varkey appealed the denial to the District Court and filed emergency motions for a stay pending appeal and to reopen the district-court case. The District Court denied the stay motions and denied the motion to reopen as moot.

DISPOSITION

other

CASES CITED

- Ritzen Grp., Inc. v. Jackson Masonry, LLC, 589 U.S. 35, 37 (2020)
- Deshmukh v. U.S. Tr. Off., No. 25-4017, 2025 WL 2663696, at *5 (D.N.J. Sept. 17, 2025)
- In re W.R. Grace & Co., 475 B.R. 34, 205 (D. Del. 2012)
- In re Revel AC, Inc., 802 F.3d 558, 565, 570-571 (3d Cir. 2015)
- In re Forty-Eight Insulations, Inc., 115 F.3d 1294, 1301 (7th Cir. 1997)
- S.S. Body Armor I, Inc. v. Carter Ledyard & Milburn LLP, 927 F.3d 763, 775 (3d Cir. 2019)
- In re Myers, 491 F.3d 120, 128 (3d Cir. 2007)
- In re Maxus Energy Corp., 49 F.4th 223, 229 (3d Cir. 2022)
- In re Prosser, 777 F.3d 154, 161 (3d Cir. 2015)
- United States v. Green, 617 F.3d 233, 239 (3d Cir. 2010)
- United States v. Starnes, 583 F.3d 196, 214 (3d Cir. 2009)
- Cerro Fabricated Prods. LLC v. Solanick, 300 F. Supp. 3d 632, 654 (M.D. Pa. 2018)
- Facta Health Inc. v. Pharmadent LLC, No. 23-2224, 2024 WL 4345299, at *7 (3d Cir. Sept. 30, 2024)
- John Wyeth & Bro. Ltd. v. CIGNA Int'l Corp., 119 F.3d 1070, 1076 n.6 (3d Cir. 1997)
- Thornton v. State of New Jersey, No. 24-3084, 2026 WL 524685, at *2 (3d Cir. Feb. 25, 2026)
- Mar. Elec. Co. v. United Jersey Bank, 959 F.2d 1194, 1204 (3d Cir. 1991)

OPINION

VARKEY
PER CURIAM.
NOT FOR PUBLICATION
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
In re:
THOMAS K. VARKEY,
Bankruptcy Action No. 25-22026 (MEH) Debtor.
THOMAS K. VARKEY,
Appellant, Civil Action No. 26-1645 (RK) v.
M&T NATIONWIDE, LLC et al, MEMORANDUM ORDER
Appellees. KIRSCH, District Judge THIS MATTER comes before the Court upon pro se Debtor-

Appellant Thomas K. Varkey's (Appellant) Emergency Motion for a Stay Pending Appeal (""Motion" or "Mot.," ECF No. 6).! This Motion was filed in connection with Appellant's appeal of the United States Bankruptcy Court for the District of New Jersey's (the "Bankruptcy Court") order denying vacatur of its orders granting Appellees Rachel Mathew, Kochupilavilayil Easo Mathew," and M&T Nationwide, LLC (the "M&T Appellees') and Priya Thomas ("Thomas") relief from the automatic ' Appellant filed substantively identical motions both titled "Emergency Motion for Stay Pending Appeal" on February 24, 2026 and March 2, 2026. (See ECF Nos. 3, 6.) For ease of reference, the Court cites only the latter of the two motions, but the discussion applies equally to both motions. 2 The Court notes that Mr. Matthew's name is listed as "Kochupillavilayil" on the docket. The Court uses the spelling of his name as it appears in his filings. bankruptcy stay. (Bankr. ECF No. 42 at 12; Bankr. ECF No. 53.3) The M&T Appellees filed an opposition to Appellant's Motion ("Opposition" or "Opp.," ECF No. 7), and Appellant replied (ECF No. 8). The Court has considered the parties' submissions and resolves the Motion without oral argument pursuant to Federal Rule of Civil Procedure 78 and Local Civil Rule 78.1. See also L. Civ. R. 601.1(c) (providing that the District's Local Civil Rules apply to bankruptcy appeals before the District Court). After carefully considering the parties' submissions and, for the reasons explained below, the Motion is DENIED.*

I. BACKGROUND

On November 12, 2025, Appellant filed for Chapter 13 Bankruptcy. (Bankr. ECF No. 1.) This had the effect of automatically staying two relevant New Jersey Superior Court proceedings: an action brought against Appellant by his business partner Rachel Mathew with the docket number SLM-C-24-24 (the "Business Action") and a divorce action by Appellant's wife, Thomas, with the docket number FM-12-1200-23 (the "Divorce Action'). (See Bankr. ECF Nos. 29-30; Opp. at 2, 19; Mot. at 1, 23°); see also Ritzen Grp., Inc. v. Jackson Masonry, LLC, 589 U.S. 35, 37
(2020) ("Under the Bankruptcy Code, filing a petition for bankruptcy automatically 'operates as a
3 Citations to "ECF No. __" refer to docket entries in this Bankruptcy Appeal (No. 26-1645) and citations to "Bankr. ECF No. _" refer to docket entries in the underlying Bankruptcy Court case (No. 25-22026 in the Bankruptcy Court). 4 Again, this same analysis applies to the identical motion pending at ECF No. 3, which is also DENIED. The Court also notes that Appellant filed an "Emergency Motion to Reopen Case" (ECF No. 5) in response to this Court's order denying Appellant's Application to Proceed In Forma Pauperis and closing the case (ECF No. 4). This matter was reopened upon Appellant's payment of the filing fee in the Bankruptcy Court. Accordingly, Appellant's Emergency Motion to Reopen Case is DENIED as moot. 5 Because the Motion and Opposition are not consecutively paginated, the Court uses the page numbers generated by ECF. stay' of creditors' debt-collection efforts outside the umbrella of the bankruptcy case." (quoting 11 U.S.C. § 362(a))). The M&T Appellees moved to lift the stay with respect to the Business Action and Thomas did the same with respect to the Divorce Action. (See Bankr. ECF Nos. 18-19.) After a hearing, the Bankruptcy Court granted both motions. (See Bankr. Docket

Entries Dated January 14, 2026; Bankr. ECF Nos. 29-30.) Appellant then moved to vacate both orders. (Bankr. ECF No. 42 at 12 (asking that the Bankruptcy Court vacate the order "granting relief from the automatic stay in favor of M&T Nationwide, LLC and Priya Thomas").) The M&T Appellees opposed, and after a hearing, the Bankruptcy Court denied the motion (Bankr. Docket Entry Dated February 4, 2026; Bankr. ECF Nos. 47, 53.) Appellant then appealed that order denying vacatur to this Court. (ECF No. 1.) Appellant filed an Emergency Motion for Stay Pending Appeal in the Bankruptcy Court, and that motion is still pending.® (See Bankr. ECF No. 63.) Appellant then filed his similar Motion in this Court, alleging that imminent proceedings in the Divorce Action could result in transfers of some of his multiple properties. (See Mot at 1.)

II. LEGAL STANDARD

A party may move in the district court for a stay pending appeal pursuant to Federal Rule of Bankruptcy Procedure 8007(b). See Fed. R. Bankr. P. 8007(b). Such a stay "is an 'extraordinary remedy.'" Deshmukh vy. U.S. Tr. Off, No. 25-4017, 2025 WL 2663696, at *5 (D.N.J. Sept. 17, 2025) (quoting In re W.R. Grace & Co., 475 B.R. 34, 205 (D. Del. 2012)). In determining whether to grant such a stay, courts apply factors akin to those used in the preliminary injunction context. As the United States Court of Appeals for the Third Circuit has explained: In considering whether to grant a stay pending appeal, courts consider the following 6 Appellant claims that this motion was denied by the Bankruptcy Court, but that does not appear to be the case. (Mot. at 1.) four factors: (1) whether the appellant has made a strong showing of the likelihood of success on the merits; (2) will the appellant suffer irreparable injury absent a stay; (3) would a stay substantially harm other parties with an interest in the litigation; and (4) whether a stay is in the public interest. Inre Revel AC, Inc., 802 F.3d 558, 565 (3d Cir. 2015). The first two factors are the "most critical," id. at 570, and if the movant fails to show either of the first two factors, "the stay should be denied without further analysis," id. at 571 (quoting In re Forty-Eight Insulations, Inc., 115 F.3d 1294, 1301 (7th Cir. 1997)). On the first factor, the movant bears the "burden of demonstrating that it has a 'significantly better than negligible' chance of succeeding on the merits of its" appeal. S.S. Body Armor L, Inc. v. Carter Ledyard & Milburn LLP, 927 F.3d 763, 775 (3d Cir. 2019) (quoting Inre Revel AC, Inc., 802 F.3d at 571). A bankruptcy court's decision to grant relief from the automatic stay is reviewed for abuse of discretion. See In re Myers, 491 F.3d 120, 128 (3d Cir. 2007). An abuse of discretion arises when a court's decision is based on "a clearly erroneous finding of fact, an erroneous legal conclusion or an improper application of law to fact." In re Maxus Energy Corp., 49 F 4th 223, 229 (3d. Cir. 2022) (quoting In re Prosser, 777 F.3d 154, 161 (3d Cir. 2015)). In other words, a court abuses its discretion "only where the . . . court's decision is 'arbitrary, fanciful, or clearly unreasonable'—in short, where 'no reasonable person would adopt the . . . court's view."" United States v. Green, 617 F.3d 233, 239 (3d Cir. 2010) (quoting United States v. Starnes, 583 F.3d 196, 214 (3d Cir. 2009)).

I. DISCUSSION

Appellant does not meaningfully argue that he is likely to succeed on the merits, so he fails to carry his burden to justify a stay pending appeal. See S.S. Body Armor I, Inc., 927 F.3d at 775. Appellant correctly recognizes that he must "ma[k]e a strong showing of likelihood of success on the merits." (Mot. at 8.) However, rather than make any argument to this effect, he lists a series of four allegedly "substantial legal questions" related to whether property may be transferred while a bankruptcy is ongoing and conclusorily states he has a "reasonable likelihood of success." (/d. at 9-10.) This one sentence summary statement does not suffice to show a likelihood of success on the merits. See Cerro Fabricated Prods. LLC v. Solanick, 300 F. Supp. 3d 632, 654 (M.D. Pa. 2018) ("This brief and generalized assertion fails to satisfy Plaintiff's burden of demonstrating a likelihood of success on the merits."). In fact, any argument for likelihood of success on the merits was likely forfeited altogether. See Facta Health Inc. v. Pharmadent LLC, No. 23-2224, 2024 WL 4345299, at *7 (3d Cir. Sept. 30, 2024) (argument forfeited where it consisted of "only a singular, passing, and unsubstantiated reference to due process violations" (citing John Wyeth & Bro. Ltd. v. CIGNA Int'l Corp., 119 F.3d 1070, 1076 n.6 (3d Cir. 1997)); see also Thornton v. State of New Jersey, No. 24-3084, 2026 WL 524685, at *2 (3d Cir. Feb. 25, 2026) (applying doctrine of forfeiture to a pro se litigant). Even if the Court were to construct an argument from Appellant's passing statements, that argument would fail to show a likelihood of success on the merits. Appellant's "substantial legal questions" relate to whether state court proceedings may continue during the pendency of bankruptcy. (Mot. at 9.) However, it is well established that "[i]f relief from the stay is granted," as it has been here, "judicial proceedings against the debtor may then continue." Mar. Elec. Co. v. United Jersey Bank, 959 F.2d 1194, 1204 (3d Cir. 1991). Accordingly, there is no likelihood of success on the merits or even substantial question here. Having failed to meaningfully argue that he is likely to succeed on his appeal, Appellant has undoubtedly failed to carry his "burden of demonstrating that [he] has a 'significantly better than negligible' chance of succeeding on the merits of' his appeal. S.S. Body Armor I, Inc., 927 F.3d at 775 (quoting In re Revel AC, Inc., 802 F.3d at 571). Because he has failed on the first threshold stay factor, "the stay should be denied without further analysis." In re Revel AC, Inc., 802 F.3d at 571 (quoting In re Forty-Eight Insulations, Inc., 115 F.3d at 1301). Appellant's Motion, therefore, is DENIED. THEREFORE, it is on this 4th day of March, 2026, ORDERED that Appellant's Emergency Motions for a Stay Pending Appeal (ECF Nos. 3, 6) and Emergency Motion to Reopen Case (ECF No. 5) are DENIED, and it is further ORDERED that the Clerk of the Court TERMINATE the Motiops pending al\ ECF Nos. 3, 5, and 6.) \ / ZY

ROBERT KIRSCH

UNITED STATES DISTRICT JUDGE

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