

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Candie Yer Herr and Eric Zooves Herr v. Helen M. Ludwig, Dillon
Ambrose, and United States Department of Justice

Herr · No. 25-CV-1955-JPS · Decided December 23, 2025

SUMMARY

The United States District Court for the Eastern District of Wisconsin dismissed without prejudice a bankruptcy appeal brought by Candie Yer Herr and Eric Zooves Herr. The court dismissed the appeal for failure to prosecute after the appellants failed to pay the required filing fee and warned that future frivolous or unpaid appeals could result in sanctions.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	J.P. Stadtmueller
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	December 23, 2025
DOCKET	25-CV-1955-JPS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Debtor-appellants appealed the bankruptcy court's denial of their motion to reopen a bankruptcy adversary proceeding and then moved to voluntarily dismiss the appeal.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Candie Yer Herr, Eric Zooves Herr v. Helen M. Ludwig, Dillon Ambrose, United States Department of Justice

TOPICS

- appellate procedure
- bankruptcy
- civil procedure
- sanctions

PRACTICE AREAS

- bankruptcy
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the district court could dismiss the bankruptcy appeal without prejudice for failure to prosecute when appellants failed to pay the required appeal filing fee.
2. Whether appellants' unilateral notice of voluntary dismissal required dismissal under Federal Rule of Bankruptcy Procedure 8023(a).

HOLDINGS

1. The district court may dismiss a bankruptcy appeal without prejudice for failure to prosecute when the appellants fail to pay the required appeal filing fee.
2. The appellants' notice did not qualify for stipulated voluntary dismissal under Federal Rule of Bankruptcy Procedure 8023(a) because it lacked the appellees' signatures and did not specify how the outstanding appeal filing fee would be paid.

KEY QUOTATIONS

“It is within the district court’s sound discretion to dismiss an appeal from a bankruptcy court order when the appellant negligently fails to comply with procedural rules”

FACTUAL BACKGROUND

Candie Yer Herr and Eric Zooves Herr appealed an order denying their motion to reopen a bankruptcy adversary proceeding. They did not pay the required filing fee for the appeal and filed a notice of purported voluntary dismissal less than two weeks after filing the notice of appeal. The notice was not signed by the appellees and did not specify how the outstanding appeal filing fee would be paid.

PROCEDURAL HISTORY

The United States Bankruptcy Court for the Eastern District of Wisconsin denied appellants' motion to reopen their adversary proceeding. Appellants filed a district-court appeal but did not pay the required appeal filing fee. They subsequently filed a notice purporting to voluntarily dismiss the appeal, asserting that a new adversary proceeding superseded the issues on appeal. The district court dismissed the appeal without prejudice for failure to prosecute and directed the clerk to enter judgment.

DISPOSITION

dismissed

CASES CITED

- In re ANR-Advance Transp. Co., 73 F. App’x 183, 185 (7th Cir. 2003)

OPINION

Herr

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

CANDIE YER HERR and ERIC

ZOOVES HERR,

Appellants, Case No. 25-CV-1955-JPS v.

HELEN M. LUDWIG, DILLON ORDER

AMBROSE, and UNITED STATES

DEPARTMENT OF JUSTICE,

Appellees. Debtor-Appellants Candie Yer Herr and Eric Zooves Herr (“Appellants”), acting pro se, appeal United States Bankruptcy Judge Rachel M. Blise’s denial of their motion to reopen their bankruptcy adversary proceeding, Candie Yer Herr et al. v. Helen M. Ludwig et al., No. 25-02091-rmb, ECF No. 18 (Bankr. E.D. Wis. Dec. 1, 2025) (hereinafter “Adversary Proceeding Docket”). ECF No. 1. They did not pay the required filing fee to appeal. See Adversary Proceeding Docket, ECF No. 21. Less than two weeks after they filed their notice of appeal, they filed a notice purporting to voluntarily dismiss it. ECF No. 2; Adversary Proceeding Docket, ECF No. 24. Appellants represent that their decision to withdraw their appeal “is based on the filing of a new adversary proceeding . . . which supersedes the issues raised in this appeal.” ECF No. 2 at 1. On the appellants’ motion, the Court may dismiss an appeal from a bankruptcy court’s order, on terms it deems proper. FED. R. BANKR. P. 8023(b).¹ Additionally, the Federal Rules of Civil Procedure and the Local Rules for the United States District Court of the Eastern District of Wisconsin provide for dismissal of an action that the plaintiff (here, Appellants) has failed to prosecute. FED. R. CIV. P. 41(b); CIV. L.R. 41(c); see also FED. R. BANKR. P. 8023(b), Committee Notes on Rules—2014 (“Nothing in this rule prohibits a district court . . . from dismissing an appeal for other reasons authorized by law, such as the failure to prosecute an appeal.”); *In re ANR-Advance Transp. Co.*, 73 F. App’x 183, 185 (7th Cir. 2003) (“It is within the district court’s sound discretion to dismiss an appeal from a bankruptcy court order when the appellant negligently fails to comply with procedural rules” (collecting cases)). Here, the Court will dismiss this case without prejudice for Appellants’ failure to prosecute this case by failing to pay the required filing fee to appeal. Every filing, case, and appeal require some measure of the Court’s resources, and it is not a prudent use of the Court’s resources—nor the Bankruptcy Court’s, Appellees’, or Appellants’ resources—to initiate appeals that are quickly abandoned. Appellants are warned that future filing of appeals without paying the required appeal filing fee, or the filing of frivolous appeals, may result in sanctions including but not limited to dismissal, monetary penalties, and filing bars. Accordingly, IT IS ORDERED that Debtor-Appellants Candie Yer Herr and Eric Zooves Herr’s appeal of United States Bankruptcy Court for the Eastern

¹Rule 8023(a) provides for stipulated voluntary dismissal “if the parties file

a signed dismissal agreement specifying how costs are to be paid and pay any court fees that are due.” This provision does not apply here because Appellants’ notice is not signed by any of the Appellees nor does it specify how the outstanding costs—the appeal filing fee—will be paid.

District of Wisconsin Adversary Proceeding No. 25-02091-rmb be and the same is hereby DISMISSED without prejudice for failure to prosecute. The Clerk of Court is directed to enter judgment accordingly. Dated at Milwaukee, Wisconsin, this 23rd day of December, 2025.

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J.P. State ueller District Judge This Order and the judgment to follow are final. A dissatisfied party may appeal this Court's decision to the Court of Appeals for the Seventh Circuit by filing in this Court a notice of appeal within thirty (30) days of the entry of judgment. See Fed. R. App. P. 3, 4. This Court may extend this deadline if a party timely requests an extension and shows good cause or excusable neglect for not being able to meet the thirty-day deadline. See Fed. R. App. P. 4(a)(5) (A). Moreover, under certain circumstances, a party may ask this Court to rehear the matter. Fed. R. Bankr. P. 8022. Such a motion must be filed within fourteen (14) days of the entry of judgment. The Court may extend this deadline upon a party's motion to do so. Fed. R. Bankr. P. 8022(a)(1).
Page 3 of 3