

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PRECEDENTIAL VALUE	unpublished district court order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)