

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
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ORDER

May 10, 2019

Before

DIANE P. WOOD, *Chief Judge*
WILLIAM J. BAUER, *Circuit Judge*
DAVID F. HAMILTON, *Circuit Judge*

No. 18-3301	MOMO ENTERPRISES, LLC, et al., Plaintiffs - Appellants and ROBERT DWIGHT SHEARER, JR., Appellant v. POPULAR BANK, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 1:15-cv-11074 Northern District of Illinois, Eastern Division District Judge Sharon Johnson Coleman	

The following are before the Court:

1. **APPELLEES' MOTION TO DISMISS APPEAL OR, IN THE ALTERNATIVE, FOR SUMMARY AFFIRMANCE**, filed on April 3, 2019, by counsel for the appellees.

2. **APPELLANTS' RESPONSE IN OPPOSITION TO APPELLEES' MOTION TO DISMISS, OR IN THE ALTERNATIVE, FOR SUMMARY AFFIRMANCE AND TO EXPLAIN IN THAT RESPONSE WHY ANASTACIO GONAZALEZ HAS NOT PAID THE SANCTIONS IMPOSED IN APPEAL NO. 17-3223**, filed on May 1, 2019, by counsel for the appellants.
3. **APPELLEES' REPLY IN SUPPORT OF THE MOTION TO DISMISS APPEAL OR, IN THE ALTERNATIVE, FOR SUMMARY AFFIRMANCE**, filed on May 8, 2019, by counsel for the appellees.

On October 4, 2018, this court summarily affirmed the district court's judgment in appeal no. 17-3223 and sanctioned the appellant, Anastacio Gonzalez, \$2,500 for filing a frivolous appeal. *See Momo Enterprises, LLC v. Popular Bank*, 738 F. App'x 886 (7th Cir. 2018). The sanction was to be paid to the appellees, but Gonzalez has failed to do so. He has now appealed the denial of his motion for relief from the judgment that this court summarily affirmed. The appellees move for this appeal to be summarily affirmed as well.

This court has carefully reviewed the order of the district court, the record on appeal, and the motions papers submitted by the parties. Based on this review, the court has determined that any issues that could be raised are insubstantial and that further briefing would not be helpful to the court's consideration of the issues. *See Taylor v. City of New Albany*, 979 F.2d 87 (7th Cir. 1992); *Mather v. Village of Mundelein*, 869 F.2d 356, 357 (7th Cir. 1989) (court can decide case on motions papers and record where briefing would be not assist the court and no member of the panel desires briefing or argument). "Summary disposition is appropriate ... 'when the position of one party is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists.'" *Williams v. Chrans*, 42 F.3d 1137, 1139 (7th Cir. 1995) (quoting *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994)). The district court did not err in denying Gonzalez's motion to set aside its judgment because his claims of fraud were within the scope of his original appeal and do not justify relief.

Accordingly, **IT IS ORDERED** that the appellees' motion is **GRANTED**, and the judgment of the district court is summarily **AFFIRMED**.

This court ordered Gonzalez to show cause why he should not be subject to a filing bar for his failure to pay the sanction. Gonzalez filed a response to the show cause order, but the response offers no justification for his refusal to pay the sanction we ordered.

Accordingly, **IT IS FURTHER ORDERED** that, unless and until Anastacio Gonzalez pays all outstanding filing fees and sanctions, the clerks of all federal courts in this circuit are directed to return unfiled any papers submitted either directly or indirectly by him or on his behalf. *See*

In re City of Chicago, 500 F.3d 582, 585-86 (7th Cir. 2007); *Support Sys. Intl, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995). In accordance with our decision in *Mack*, exceptions to this filing bar are made for criminal cases and for applications for writs of habeas corpus. *See Mack*, 45 F.3d at 186-87. This order will be lifted immediately once Gonzalez makes full payment. *See City of Chicago*, 500 F.3d at 585-86. If Gonzalez, despite his best efforts, is unable to pay in full all outstanding sanctions and filing fees, no earlier than two years from the date of this order he is authorized to submit to this court a motion to modify or rescind this order. *See id.*; *Mack*, 45 F.3d at 186.

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