[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-15151
Non-Argument Calendar

D.C. Docket Nos. 8:18-cv-00846-WFJ; 8:17-bk-01214-RCT

In re:

ALYCE ANN JURGENS,
a.k.a. Alyce Ann Jurgens-Schenk,
a.k.a. Alyce Ann Schenk,
a.k.a. Alyce Ann Lowe,

Debtor.

PETER SZANTO,

Plaintiff-Appellant,

versus

ALYCE ANN JURGENS,
a.k.a. Alyce Ann Jurgens-Schenk,
a.k.a. Alyce Ann Schenk,
a.k.a. Alyce Ann Lowe,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

(August 6, 2019)

Before MARCUS, WILLIAM PRYOR and GRANT, Circuit Judges.

PER CURIAM:

Peter Szanto, a creditor proceeding pro se, appeals the district court's orders affirming the bankruptcy court's dismissal of his adversary complaint and denying his pro se Fed. R. Civ. P. 59 motion to alter or amend. Court records show that he also filed an adversary complaint against Alyce Jurgens in separate bankruptcy proceedings in 2015. On appeal, Szanto argues that: (1) the mediated settlement agreement ("Settlement Agreement") he entered into with Jurgens was invalid, and because his hands are clean, he is entitled to equitable relief; (2) the bankruptcy court erred in dismissing his adversary complaint as barred by res judicata, since no judgment on the merits existed in the 2015 adversary proceedings after the parties settled; and (3) the district court's order affirming the bankruptcy court's dismissal contains errors and should be reversed. After careful review, we affirm.[1]

[1] In addition, while Szanto generally mentions that his claims should not have been dismissed by the bankruptcy court, he does not address its resolution of (1) his fraudulent inducement argument, nor (2) his argument that the Settlement Agreement did not bar his underlying claims. Similarly, he repeats arguments found in his Rule 59 motion to alter or amend, but does not address its denial. As a result, he has abandoned any appeal of these issues, and we will not consider them. See Timson v. Sampson, 518 F.3d 870, 874 (11th Cir. 2008)

Generally, as the second court of review of a bankruptcy court's judgment, we independently examine the factual and legal determinations of the bankruptcy court and employ the same standards of review as the district court. In re Gonzalez, 832 F.3d 1251, 1253 (11th Cir. 2016). Specifically, we review the bankruptcy court's factual findings for clear error and the legal conclusions of both the bankruptcy court and the district court de novo. Id. Thus, we review a bankruptcy court's application of res judicata de novo. In re Piper Aircraft Corp., 244 F.3d 1289, 1295 (11th Cir. 2001).

For starters, we decline to consider Szanto's arguments that the Settlement Agreement is invalid or that he is entitled to equitable relief. We've long held that we will not consider an issue not raised in the district court and raised for the first time in an appeal. Walker v. Jones, 10 F.3d 1569, 1572 (11th Cir. 1994). This is so because, as a court of appeals, we review claims of judicial error in the lower courts. Access Now, Inc. v. Sw. Airlines Co., 385 F.3d 1324, 1331 (11th Cir. 2004). If we were to regularly address questions, particularly fact-bound issues, that the lower court did not have a chance to examine, we would waste our judicial resources and deviate from the essential nature and purpose of an appellate court. Id. Applying this rule to bankruptcy cases, we've declined to address arguments that were not

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(holding that "[w]hile we read briefs filed by pro se litigants liberally," issues not briefed on appeal in a pro se litigant's opening brief are "deemed abandoned").

raised in the bankruptcy court. See In re Worldwide Web Sys., Inc., 328 F.3d 1291, 1298 (11th Cir. 2003); see also In re Espino, 806 F.2d 1001, 1002 (11th Cir. 1986) (declining to consider arguments that were only presented "in a cursory manner" to the bankruptcy court). Thus, in bankruptcy appeals, we've "embraced [the] conception of the civil plain error rule," which means that we would only consider an issue raised for the first time in our Court if it involves a pure question of law, and if refusal to consider it would result in a miscarriage of justice. In re Lett, 632 F.3d 1216, 1227 (11th Cir. 2011).

In this appeal, we decline to consider Szanto's arguments that the Settlement Agreement is invalid or that he is entitled to equitable relief because, by failing to raise them before the bankruptcy court, he failed to preserve them. See In re Worldwide Web Sys., Inc., 328 F.3d at 1298. The validity of the Settlement Agreement is not a pure question of law, both lower courts found that the Settlement Agreement was valid, and no miscarriage of justice will result by refusing to consider either argument, because Szanto has already obtained, and sought to enforce, final judgments against Jurgens. See In Re Lett, 632 F.3d at 1227.

Next, we are unpersuaded by Szanto's argument that the bankruptcy court erred in dismissing his adversary complaint as barred by res judicata. Under res judicata, a final judgment on the merits bars the parties to a prior action from re-litigating a cause of action that was or could have been raised in that action. See In

re Piper Aircraft, 244 F.3d at 1296. Res judicata bars a claim in a prior case if: (1) there was a final judgment on the merits rendered by a court with jurisdiction; (2) the cases involved the same parties or those in privity with them; and (3) the same cause of action is involved in both cases. Id. A bankruptcy court's order approving a settlement agreement is sufficiently final to be entitled to preclusive effect when there is no comprehensive plan required to provide finality to all parties in the bankruptcy proceeding. See In re Martin, 490 F.3d 1272, 1276–77 (11th Cir. 2007). In order to determine whether the two proceedings are based on the same cause of action, the test is whether they arise out of the same nucleus of operative fact, or are based upon the same factual predicate. In re Piper Aircraft, 244 F.3d at 1297.

Here, the bankruptcy court did not err in dismissing Szanto's adversary complaint in part based on res judicata. In the 2015 adversary proceedings, his claims were (1) resolved in a settlement agreement approved of by the bankruptcy court, (2) between the same parties, and (3) involved the same cause of action. See In re Piper Aircraft, 244 F.3d at 1297. We've held that a settlement agreement is sufficiently final for the purposes of res judicata, see In re Martin, 490 F.3d at 1276–77, and the bankruptcy court also issued a final judgment and an amended final judgment in his favor. Accordingly, we affirm as to this issue.

Finally, we reject Szanto's argument that because of errors in the district court's order affirming the bankruptcy court's dismissal, it warrants reversal. A

harmless error in a civil action, which does not affect a party's substantial rights, is not a basis for vacating or modifying that judgment. Fed. R. Civ. P. 61. The appellant bears the burden of showing prejudice and that the error was not harmless. In re Club Assocs., 951 F.2d 1223, 1234 (11th Cir. 1992).

Szanto points to several alleged errors in the district court's order, including that: (1) it erroneously said that the bankruptcy court took ten weeks to approve the Settlement Agreement, when, according to our review of the docket, it took less time than that, although Szanto doesn't specify the correct time frame or explain how the error matters; (2) it said that "the watch was to be mailed by Mr. Szanto," rather than "to" Szanto; and (3) it did not reference citations in its order. However, none of these errors, or any others Szanto mentions, affected his substantial rights, so any error would be harmless. See Fed. R. Civ. P. 61. Thus, for example, while the ten-week time period may have been technically incorrect, the thrust of the district court's point -- that Szanto did not withdraw his consent during the motion for approval's pendency, and continued to seek enforcement of the Settlement Agreement, ultimately obtaining two judgments in his favor -- was correct, and supported the district court's decision. As for the typographical error, the court corrected it in a paperless order. Moreover, the district court's conclusion that Szanto showed no reversible error was also correct, regardless of the extent of its

citations. Accordingly, Szanto has not borne his burden and shown prejudice from the errors he alleges. See In re Club Assocs., 951 F.2d at 1234.

AFFIRMED.