[DO NOT PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 23-11705

Non-Argument Calendar

In re: AVA ELECTRIS CANNIE,

Debtor.

AVA ELECTRIS CANNIE,
a.k.a. Eva Helene Cannie,
d.b.a. Country Club Merchant Magazine,

Plaintiff-Appellant,

versus

JACKSONVILLE GOLF & COUNTRY CLUB PROPERTY OWNERS ASSOCIATION, INC.,
JGCC POA,
JGCC PROPERTY OWNERS ASSOCIATION, INC.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:22-cv-01022-BJD

Before NEWSOM, BRANCH, and ANDERSON, Circuit Judges.

PER CURIAM:

Ava Cannie, proceeding *pro se*, seeks sanctions against Jacksonville Golf & Country Club Property Owners Association ("JGCC") for pursuing "post-petition fees" outside of her bankruptcy proceedings. The bankruptcy court denied the motion on the merits and *res judicata* grounds, and the district court affirmed. Cannie's brief in this court argues the merits of her claim, but it fails to contest the bankruptcy court's independently sufficient ruling that her arguments are barred by *res judicata*. While she ultimately joins the issue in her reply brief, that is insufficient under our well-settled standards of appellate review. We therefore affirm as well.

I. Background

Cannie filed a voluntary Chapter 13 bankruptcy petition, listing JGCC as one of her creditors. After the case was dismissed and reinstated and dismissed again, the bankruptcy court issued an

order protecting JGCC's interests because JGCC had a deed to the property it claimed an interest in.

The bankruptcy court reopened the case a second time, and JGCC filed a secured proof of post-petition fees and expenses. The bankruptcy court overruled the objection, relying on the order protecting JGCC's interests and explaining that Cannie could not challenge those rulings under *res judicata* and collateral estoppel.

JGCC then filed a motion for relief from the automatic stay[1] to permit it to seek the post-petition fees outside the plan. JGCC explained that Cannie had not paid the post-petition fees outside the plan, as agreed, and that it wanted to file a lien to acquire those fees. The bankruptcy court lifted the automatic stay as JGCC requested. As a result of this permission to pursue post-petition fees under Florida law, JGCC withdrew its post-petition claims from the bankruptcy proceeding.

Later, the bankruptcy court confirmed the proposed Chapter 13 plan. The bankruptcy court said that post-petition costs or other expenses incurred by a secured creditor would be "discharged upon [Cannie's] completion of the plan, unless specifically provided for in this order, or by further order of Court"

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[1] "The automatic stay is a fundamental procedural mechanism" that "facilitates the orderly administration and distribution of the estate by protecting the bankrupt's estate from being eaten away by creditors' lawsuits . . . before the trustee has had a chance to marshal the estate's assets and distribute them equitably among the creditors." *In re Diaz*, 647 F.3d 1073, 1085 (11th Cir. 2011) (alterations accepted) (quotation omitted).

and that "this provision specifically supersedes all language in any confirmed plan that states differently." The confirmed plan stated that JGCC's claim for post-petition fees and costs "will not be provided for in the terms of the plan; will be resolved directly between Debtor and Creditor."

JGCC objected to the discharge language, arguing that it was a scrivener's error or form language that did not apply under the circumstances. Cannie, in addition to responding to JGCC, filed a motion for sanctions against JGCC. JGCC withdrew its objection to the confirmed plan, and Cannie withdrew her motion for sanctions.

After Cannie completed her Chapter 13 plan and the bankruptcy court granted her a discharge, Cannie sought to reopen her case and move for sanctions because JGCC continued to seek repayment of fees. After the court agreed, the case was closed and re-opened once more, with Cannie filing additional motions for sanctions. JGCC argued, among other things, that the court order overruling Cannie's objection to its earlier claim and lifting the automatic stay had already ruled that it was entitled to post-petition fees and costs, and that the doctrine of *res judicata* barred Cannie from relitigating this issue.

The bankruptcy court denied Cannie's motion for sanctions. Two aspects of that ruling are pertinent. First, the bankruptcy court held that the confirmed plan expressly did not provide for JGCC's post-petition claim, including its post-petition attorneys' fees. Therefore, JGCC's "postpetition claim was not discharged

because the . . . plan did not provide for it." Second, "[a]s a separate and independent basis for denial," the court also determined that *res judicata* barred Cannie's claim because the bankruptcy court had already specifically overruled Cannie's objection to JGCC's claim for post-petition fees.

Cannie filed a motion for rehearing, which the bankruptcy court denied because Cannie failed to reference a change in controlling law or present new evidence.

Cannie appealed to the United States District Court for the Middle District of Florida. She filed her *pro se* brief and argued that the confirmation order superseded the confirmed plan and any language in it. She also argued that her claims were not barred by *res judicata* because she could not have raised a claim that JGCC violated the discharge order before the order was issued. The district court at first dismissed Cannie's appeal for lack of jurisdiction because she failed to timely file her appeal, but later reconsidered that decision, and affirmed the bankruptcy court's conclusions on the merits.[2] Cannie asked the district court to reconsider once more, but it declined.

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[2] The district court apparently believed that Cannie "[did] not dispute the Bankruptcy Court's analysis regarding whether her claim [was] barred by *res judicata*[, i]nstead . . . disput[ing] whether . . . [JGCC] was permitted to seek postpetition attorney's fees." Reviewing Cannie's district court brief, we are skeptical of that reading—but because what matters is the preservation of issues before this court, whether the issue was *also* abandoned before the district court is inconsequential.

Cannie appealed to this Court.

II. Discussion

Cannie argues that the bankruptcy court abused its discretion in denying her motion for sanctions against JGCC because JGCC pursued fees from her despite the Chapter 13 confirmation order stating that post-petition fees would be discharged upon completion of the plan. But Cannie failed in her opening brief to challenge the bankruptcy court's alternative holding—that Cannie's arguments were barred by *res judicata*.[3] Thus, that ground for decision stands unopposed, and we affirm.

"To obtain reversal of a [lower] court judgment that is based on multiple, independent grounds, an appellant must convince us that every stated ground for the judgment . . . is incorrect. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 680 (11th Cir. 2014). So "[w]hen an appellant fails to challenge properly on appeal one of the grounds on which the [lower] court based its judgment, [s]he is deemed to have abandoned any challenge of that ground, and it follows that the judgment is due to be affirmed." *Id.*

Here, Cannie does not contest the *res judicata* ruling in her opening brief. *See Sapuppo*, 739 F.3d at 681–83 (affirming the district court's judgment because appellants "abandoned any

[3] Cannie does mention *res judicata* in her brief, but only to suggest that *JGCC*'s arguments about the confirmed plan were barred by *res judicata*. She does not argue that (let alone show why) the district court erred in concluding that *her* argument was barred by *res judicata*.

argument they may have had that the district court erred in its alternative holdings"). Thus, under our well-settled standards of appellate review, she has failed to challenge the bankruptcy court's ruling on that issue. *Id.* at 680.

Cannie does join the issue in her reply brief, but "[t]hose arguments come too late." *Id.* at 683. We routinely "decline to address an argument advanced by an appellant for the first time in a reply brief." *Big Top Koolers, Inc. v. Circus–Man Snacks, Inc.*, 528 F.3d 839, 844 (11th Cir. 2008); *United States v. Levy*, 379 F.3d 1241, 1244 (11th Cir. 2004) (explaining that we have "repeatedly . . . refused to consider issues raised for the first time in an appellant's reply brief."). Even for *pro se* litigants, *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008), "[p]resenting [an] argument in the . . . reply brief does not somehow resurrect it," *Davis v. Coca–Cola Bottling Company,* 516 F.3d 955, 972 (11th Cir. 2008).

Thus, and because the *res judicata* ruling was "a separate and independent basis" for denying Cannie's motion for sanctions, her failure to challenge that ruling is enough to resolve this appeal. *Sapuppo*, 739 F.3d at 680.

AFFIRMED.