

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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|--------------------------------------|---|------------------------|
| Kimberly Austin, | : | |
| Plaintiff-Appellee, | : | |
| v. | : | No. 05AP-1095 |
| Yvonne D. Webb-Lewis, | : | (C.P.C. No. 03-CV-474) |
| Defendant-Appellant, | : | (REGULAR CALENDAR) |
| and | : | |
| Ohio Republic Surety Company et al., | : | |
| Defendants-Appellees. | : | |

D E C I S I O N

Rendered on April 20, 2006

Kimberly Austin, pro se.

Yvonne D. Webb-Lewis, pro se.

*McNamara and McNamara, William H. Woods and
Jonathan M. Bryan*, for appellee Western Surety Co.

ON MOTIONS

TRAVIS, J.

{¶1} Yvonne D. Webb-Lewis, defendant-appellant, brought this appeal from an order of the Franklin County Court of Common Pleas granting summary judgment to defendant-appellee Western Surety on its claim for indemnification against Webb-Lewis.

{¶2} Upon suggestion of bankruptcy, we stayed the matter as of November 21, 2005. The matter is now before us on appellee's March 9, 2006 motion to lift the bankruptcy stay pursuant to a termination order entered by the United States Bankruptcy Court, and a subsequent "judicial notice of dismissal of action pursuant to Appellate Rule 28 & 11 U.S.C. §727, §509(B)(2)" brought by appellant. This last filing is construed by this court as a motion to dismiss the appeal.

{¶3} Appellee's motion to reactivate the appeal due to appellant's discharge by the bankruptcy court is unopposed and is hereby granted.

{¶4} Appellant's March 31, 2006 motion to dismiss the appeal is granted. The suggestion put forth by appellant in this motion to the effect that the discharge order entered by the Federal Bankruptcy Court is dispositive of the claims presented in the present action is explicitly not adopted in this decision. The effect of the discharge in bankruptcy upon the trial court's judgment, which remains undisturbed after the dismissal of this appeal, is a matter for the trial court to ascertain in further proceedings if necessary.

{¶5} The final issue pending before this court is an objection filed by appellee to appellant's affidavit of indigency. On November 7, 2005, this court by entry required

appellant to submit not later than November 14, 2005 the Ohio Public Defender financial disclosure statement setting forth income, assets, and liabilities in order for the court to properly determine whether the filing fee should be waived. On November 10, 2005, appellant moved for reconsideration of this order. The motion for reconsideration is denied. Appellant has failed to provide the requested financial disclosure statement, and we accordingly deny appellant's request for a waiver for filing fees. All other motions presently pending before the court, including motions for sanctions, are denied. The appeal is dismissed.

*Motion to dismiss granted;
Appeal dismissed.*

KLATT, P.J., and FRENCH, J., concur.
