

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA09-769

JONATHAN YOUNG

APPELLANT

V.

KRISTALYNN YOUNG

APPELLEE

Opinion Delivered March 17, 2010

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[NO. DR2006-1150-4]

HONORABLE MARCIA RENAUD
HEARNSBERGER, JUDGE

DISMISSED

JOSEPHINE LINKER HART, Judge

In this one-brief appeal, Jonathan Young challenges an order of the Garland County Circuit Court finding him in contempt for failing to pay certain monies due pursuant to his divorce decree. On appeal, Jonathan argues that the trial court erred because (1) the contempt finding was based upon insufficient evidence; (2) the trial court impermissibly shifted the burden to him to prove that the proceeding violated the automatic stay; (3) the contempt order violated both the doctrines of inconsistencies and judicial estoppel; (4) his incarceration before the contempt order was filed for record violated his right to due process; (5) the orders appealed from were void ab initio. We hold that because Young has served his contempt sentence, this case is moot.

Generally, where the terms of a contempt order have been fulfilled, the issue of the propriety of the contempt order is moot. *Swindle v. State*, 373 Ark. 518, 285 S.W.3d 200

(2008). We are mindful that where a case involves issues that are moot but are capable of repetition, yet evade review, we may elect to settle an issue. *Id.* We hold that the record before us does not compel us to do so in this case.

In deciding that this case is moot, we note that Kristalynn's circuit court attorney introduced into evidence an order of the bankruptcy court that stated unequivocally that the automatic stay was lifted. It stated in pertinent part:

The Motion for Relief from Stay is granted for the purpose of allowing the parties to file pleadings with the Arkansas Court of Appeals or to seek state court remedies that are not inconsistent with any ruling issued by the Arkansas Court of Appeals in the underlying Circuit Court proceeding. This Order shall continue in effect should the Debtor convert his case to a Chapter 13 Bankruptcy.

We note that Jonathan's appellate attorney, who is also his bankruptcy attorney, placed in the record certain bankruptcy-court documents as well as a transcript from the hearing wherein the relief-from-the-stay motion was presented. These documents were not presented to the circuit court, therefore, placing them in the abstract and addendum violates Arkansas Supreme Court Rule 4-2. While it may be true that these documents seem to cast doubt about whether the order lifting the stay accurately reflects the intention of the bankruptcy judge, we will not consider them in this appeal.

Dismissed as moot.

ROBBINS and HENRY, JJ., agree.