

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-2341

In Re: FRANCIS CLIFFORD TUCKER,

Debtor.

FRANCIS CLIFFORD TUCKER, Debtor,

Debtor - Appellant,

v.

OHIO VALLEY AMUSEMENT COMPANY, Creditor; ALLAN HART,
Creditor; ALEXAS ENTERTAINMENT, LLC, Creditor,

Creditors - Appellees.

Appeal from the United States District Court for the Northern
District of West Virginia, at Wheeling. Frederick P. Stamp,
Jr., Senior District Judge. (5:11-cv-00038-FPS; 5:09-bk-00914)

Submitted: October 24, 2012

Decided: November 14, 2012

Before DAVIS and FLOYD, Circuit Judges, and Catherine C. EAGLES,
United States District Judge for the Middle District of North
Carolina, sitting by designation.

Affirmed by unpublished per curiam opinion.

Paul J. Harris, Wheeling, West Virginia, for Appellant. Steven
L. Thomas, KAY CASTO & CHANEY PLLC, Charleston, West Virginia,
for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Petitioning creditors-appellees, Ohio Valley Amusement Company, Alexas Intertainment, LLC, and Al Hart, filed an involuntary bankruptcy action under Chapter 7 of the Bankruptcy Code ("the Code") pursuant to 11 U.S.C. § 303 against debtor-appellant Francis C. Tucker on April 27, 2009, in the United States Bankruptcy Court for the Northern District of West Virginia. After Tucker filed an answer and two unsuccessful motions to dismiss, the bankruptcy court held a trial on the contested petition. At the conclusion of the trial, the bankruptcy court found that the petitioning creditors had satisfied their burden under 11 U.S.C. § 303(b)(1), having established that each of the three creditors held qualified claims that were not contingent, not the subject of a bona fide dispute, and entailed values that, in the aggregate, satisfied the statutory threshold. The bankruptcy court further found that the petitioning creditors satisfied their burden under 11 U.S.C. § 303(h)(1) to establish that Tucker was generally not paying his debts as they became due. Accordingly, on November 22, 2010, the bankruptcy court entered an Order for Relief on the petition.

Tucker filed a timely appeal of the bankruptcy court's order to the district court. On October 31, 2011, the district court affirmed the bankruptcy court's Order for Relief. Tucker noted a timely appeal to this Court on November 29, 2011.

After the case was calendared for oral argument, the parties moved to submit the appeal on the briefs and we granted the motion. Having carefully reviewed the briefs, record and applicable law, we affirm for the reasons stated by the district court in its thorough opinion. See In Re: Francis Clifford Tucker, 2011 WL 5192801 (N.D. W. Va. Oct. 31, 2011).

AFFIRMED