

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

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Filed: January 17, 2019

Mr. Edward Faria
2479 Murfreesboro Road
Unit 507
Nashville, TN 37217

Re: Case No. 18-5780, *In re: Edward Faria v. Henry Hildebrand, III*
Originating Case No.: 3:17-cv-01383; 3:17-bk-04384

Dear Mr. Faria,

The Court issued the enclosed Order today in this case.

Sincerely,

s/Antoinette Macon
Case Manager
Direct Dial No. 513-564-7015

cc: Mr. Henry E. Hildebrand III
Mr. Keith Throckmorton

Enclosure

Mandate to issue

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 18-5780

UNITED STATES COURT OF APPEALS
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In re: EDWARD FARIA,)
)
Debtor.)
_____)
)
EDWARD FARIA,)
)
Appellant,)
v.)
)
HENRY E. HILDEBRAND III,)
)
Appellee.)

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF
TENNESSEE

ORDER

Before: NORRIS, SUTTON, and COOK, Circuit Judges.

Edward Faria, a Tennessee resident, appeals pro se a district court order affirming an order of the bankruptcy court denying confirmation of his bankruptcy plan and dismissing his case. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

Faria filed a Chapter 13 bankruptcy petition. The holder of the mortgage on his house filed an objection, as did the bankruptcy trustee. A hearing was held at which the bankruptcy judge determined that Faria’s plan could not be confirmed because he had not been making the proposed monthly payments and the plan made no provision for paying the arrearage on his mortgage or his continuing mortgage payments. The bankruptcy judge denied confirmation of the plan and

No. 18-5780

- 2 -

dismissed the bankruptcy petition. Faria appealed to the district court, which affirmed. This timely appeal followed. In his brief, Faria argues that the holder of the mortgage is a debt collector under the Federal Debt Collection Practices Act (FDCPA) and that it was erroneously permitted to submit hearsay testimony at the confirmation hearing.

We review the bankruptcy court's decision directly, deferring to its factual findings unless clearly erroneous and reviewing its legal conclusions de novo. *See In re Gibson Grp., Inc.*, 66 F.3d 1436, 1440 (6th Cir. 1995). Review of the record shows that the bankruptcy court did not clearly err in determining that Faria's plan was not feasible because he was not making the proposed payments and his plan made no provision for paying his mortgage arrearage or the continuing monthly mortgage payments. Accordingly, the bankruptcy court properly concluded that the plan could not be confirmed. *See* 11 U.S.C. § 1325(a)(5), (6).

The arguments presented in Faria's brief are meritless. His statement that the mortgage holder is a debt collector under the FDCPA has no bearing on this bankruptcy proceeding. He objects to the introduction of hearsay, apparently the mortgage holder's statements at the confirmation hearing that Faria was over \$100,000 in arrears on his mortgage and had continuing monthly payments due of \$1,331. However, Faria effectively conceded the existence of the mortgage and his failure to make payments at the confirmation hearing. Therefore, the information provided by counsel for the mortgagee was not necessary to the bankruptcy court's finding that the plan was not feasible for failing to address these debts.

Accordingly, we **AFFIRM** the district court's order.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk