

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-1443

In Re: CENTRAL WEST VIRGINIA DEVELOPMENT
CORPORATION,

Petitioner.

CENTRAL WEST VIRGINIA DEVELOPMENT CORPORATION,

Plaintiff - Appellant,

versus

LLOYD B. FRY,

Defendant - Appellee,

and

UNITED STATES TRUSTEE; ERROL R. KOHOUN; PAMELA
L. KOHOUN,

Parties in Interest.

Appeal from the United States District Court for the Northern Dis-
trict of West Virginia, at Clarksburg. Robert Earl Maxwell, Senior
District Judge. (CA-97-181-1, BK-97-11776)

Submitted: October 21, 1999

Decided: October 26, 1999

Before WIDENER and TRAXLER, Circuit Judges, and BUTZNER, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

David Anthony Glance, Fairmont, West Virginia, for Appellant.
Jeffrey Alan Kimble, ROBINSON & MCELWEE, Clarksburg, West Virginia;
Michael Anthony Staudt, Sidney, Ohio, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Central West Virginia Development Corporation (CWVDC) appeals from the district court's order dismissing as moot its appeal from the bankruptcy court's order dismissing its petition under Chapter 11 of the bankruptcy code. Because the sole asset owned by CWVDC has been transferred to Fry and CWVDC has failed to obtain a stay pending appeal, we grant Fry's motion to dismiss the appeal as moot. See 11 U.S.C. § 363(m) (1994); Willemain v. Kivitz, 764 F.2d 1019, 1021-24 (4th Cir. 1985) (holding that sale of property to secured creditor while appeal was pending rendered appeal moot); see also In re Stadium Management Corp., 895 F.2d 845, 847 (1st Cir. 1990) ("absent a stay, the court must dismiss a pending appeal as moot because the court has no remedy that it can fashion even if it would have determined the issues differently."). We deny CWVDC's motion to strike Fry's motion to dismiss the appeal and grant Fry's motion to dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid in the decisional process.

DISMISSED