SUPREME COURT OF THE UNITED STATES

No. 91–571

ROBERT J. TAYLOR, TRUSTEE, PETITIONER *v.* FREELAND & KRONZ, WENDELL G. FREELAND AND RICHARD F. KRONZ

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

[April 21, 1992]

JUSTICE STEVENS, dissenting.

The Court states that it has "no authority to limit the application of §522*(l)* to exemptions claimed in good faith." *Ante,* at 6. It does not deny, however, that it has ample authority to hold that the doctrine of equitable tolling applies to the 30-day limitations period in Bankruptcy Rule 4003(b).[1] In my view, such a result is supported not only by strong equitable considerations, but also by the common law, the widespread practice of the bankruptcy courts, and the text of §522(b).

Rule 4003, which is derived from §522*(l)* of the Code and in part from former Bankruptcy Rule 403, shifted the

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[1]Bankruptcy Rule 4003(b) provides:

"The trustee or any creditor may file objections to the list of property claimed as exempt within 30 days after the conclusion of the meeting of creditors held pursuant to Rule 2003(a) or the filing of any amendment to the list or supplemental schedules unless, within such period, further time is granted by the court. Copies of the objections shall be delivered or mailed to the trustee and to the person filing the list and the attorney for such person."

emphasis of the earlier rule, placing the burden on the debtor to list her exemptions and the burden on the parties in interest to raise objections. Rule 4003(b) in particular fills a gap that remains in §522*(l)*, which is silent as to the time in which parties in interest must file their objections. Rule 4003(b) provides for a 30–day period for objections. Although the adoption of Rule 4003 has furthered the interest in orderly administration, there is no suggestion that it was put into effect in order to avoid prejudice to the debtor. Thus, there is no identifiable reason why ordinary tolling principles that apply in other contexts should not also apply in bankruptcy proceedings; indeed, the generally equitable character of bankruptcy makes it especially appropriate to apply such rules in this context.

It is familiar learning that the harsh consequences of federal statutes of limitation have been avoided at times by relying on either fraudulent concealment or undiscovered fraud to toll the period of limitation. For example, in *Bailey v. Glover,* 21 Wall. 342, 349–350 (1875), the Court described two situations in which the "strict letter of general statutes of limitation" would not be followed. *Id*., at 347. The first situation is "where the ignorance of the fraud has been produced by affirmative acts of the guilty party in concealing the facts," and the second is "where the party injured by the fraud remains in ignorance of it without any fault or want of diligence or care on his part." *Id*., at 347–348. The former involves fraudulent concealment; the latter defines undiscovered fraud. The Court concluded in *Bailey* that fraudulent concealment, which was at issue in that case, tolls the running of the statute of limitation when the fraud "has been concealed, or is of such character as to conceal itself." *Id*., at 349–350. To hold otherwise, reasoned the Court, would "make the law which was designed to prevent fraud the means by which it is made successful and secure." *Id*., at

349. In *Holmberg* v. *Armbrecht*, 327 U. S. 392, 397 (1946), the Court extended the reach of this tolling doctrine when it observed that it is to be "read into every federal statute of limitation."[2]

In this case, even if there was no fraud, and even if it is assumed that the trustee failed to exercise due diligence, it remains true that the parties injured by the trustee's failure to object within the 30-day period are innocent creditors. Moreover, it is apparently undisputed that there was no legitimate basis for the claim of an exemption for the entire award. See *ante*, at 4. Under these circumstances, unless the debtor could establish some prejudice caused by the trustee's failure to object promptly, I would hold that the filing of a frivolous claim for an exemption is tantamount to fraud for purposes of deciding when the 30-day period begins to run.

This, in essence, is also the position adopted by numerous bankruptcy courts and three Courts of Appeals.[3] Over a period of years, they have held that

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[2]The tolling of a statute of limitation is not limited to cases of fraud. In medical malpractice suits, for example, this Court has long endorsed the view that the statute of limitation will not bar the claim of one who was "blameless[ly] ignoran[t]" of his injury; rather, the statute of limitation will not begin to run until he has knowledge of his injury. *Urie* v. *Thompson*, 337 U. S. 163, 170 (1949).

[3]Some bankruptcy courts, however, have read the statute and rule narrowly and have refused to examine any exemption in the absence of a timely objection. See, *e.g.*, *In re Bradlow*, 119 B.R. 330, 331 (Bkrptcy. Ct. SD Fla. 1990); *In re Duncan*, 107 B.R. 754 (Bkrptcy. Ct. WD Okla. 1988); *In re Payton*, 73 B.R. 31, 32 (Bkrptcy. Ct. WD Tex. 1987); *In re Kretzer*, 48 B.R. 585, 587 (Bkrptcy. Ct. Nev. 1985); *In re Gullickson*, 39 B.R. 922 (Bkrptcy. Ct. WD Wis. 1984).

the failure to make a timely objection is not dispositive, Rule 4003(b) notwithstanding. For example, in *In re Hackett*, 13 B.R. 755, 756 (Bkrptcy. Ct. ED Pa. 1981), the court explained that “[e]quitable considerations dictate that a debtor should not be allowed exemptions to which she is obviously not entitled.” This view was echoed in *In re Rollins*, 63 B.R. 780, 783–784 (Bkrptcy. Ct. ED Tenn. 1986): “[T]he debtor cannot make property exempt simply by claiming it as exempt when there is no apparent legal basis for the exemption. In that situation, the trustee's failure to object to the claim of exemption within the time limit of Rule 4003(b) does not create an exemption.” More recently, the court in *In re Ehr*, 116 B.R. 665, 667 (Bkrptcy. Ct. ED Wis. 1988), reaffirmed this approach, as did the court in *In re Staniforth*, 116 B.R. 127, 130 (Bkrptcy. Ct. WD Wis. 1990). As one court explained: “Read strictly, Rule 4003 and Section 522*(l)* support appellants' position concerning waiver. But, most courts have not followed appellants' interpretation of these provisions. Instead, most courts hold that an exemption must have an apparent legal basis for an exemption to overcome an untimely objection.” *In re Stutterheim*, 109 B.R. 1010, 1012 (Kan. 1989).

The equitable principles that motivated these bankruptcy courts are best encapsulated by the court in *In re Bennett*, 36 B.R. 893 (Bkrptcy. Ct. WD Ky. 1984). There, the court explained that to apply Rule 4003(b) rigidly would be to encourage a debtor to claim that all of her property was exempt, thus leaving it to the trustee and creditors to sift through

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Although the court in *In re Hawn*, 69 B.R. 567 (Bkrptcy. Ct. ED Tenn. 1987) took a similar view, it at least recognized that the result might be different if there had been “evidence that the debtor fraudulently or negligently concealed any facts from the trustee or any creditors.” *Id.*, at 568.

the myriad claimed exemptions to assess their validity. Such a policy would result in reversion to "the law of the streets, with bare possession constituting not nine, but ten, parts of the law; orderly administration of estates would be replaced by uncertainty and constant litigation if not outright anarchy." *Id.*, at 895.[4]

Although several Courts of Appeals and bankruptcy courts did not go as far as these courts, preferring instead in the case of an untimely objection to examine a claimed exemption to determine if there was a "good-faith statutory basis" for the exemption, they nevertheless eschewed the literal reading of the statute and rule adopted by the Court today. They did so because they believed it was important to strike a proper balance between avoiding the undesirable effect of "exemption by declaration" and yet not permitting a trustee "another bite at the debtor's apple where the debtor has claimed certain property exempt in good faith." *In re Peterson*, 920 F. 2d 1389, 1393–1394 (CA8 1990); see *In re Sherk*, 918 F. 2d 1170, 1174 (CA5 1990); *In re Dembs*, 757 F. 2d 777, 780 (CA6 1985).

Here, the trustee would succeed under either approach. Whether the court is always permitted to

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[4]Bankruptcy courts would understandably be reluctant to encourage a policy that would contribute to the overburdening of the bankruptcy court system. As counsel for the trustee explained: "Last year there were 880,000 bankruptcy filings, 291 bankruptcy judges to deal with all of those filings, and a real need on the part of the bankruptcy courts to rely on the good faith of debtors in claiming exemptions, otherwise the whole system would collapse." Tr. of Oral Arg. 13. For example, this trustee alone "had approximately two or three hundred of these cases a year, which . . . is typical of bankruptcy trustees all across the country." *Id.*, at 15.

entertain an objection to a claimed exemption (at least until the case is closed)[5] when the claimed exemption is invalid or whether the court can do so only if the claimed exemption lacks a good-faith statutory basis, would mean that in this case the court could review the debtor's claimed exemption. Here, the parties acknowledge that the debtor could not claim a statutory basis for her claimed exemption for the full award because neither backpay nor tort recovery is exempt under §522(d)(5).

The practice of these lower courts has been motivated not only by equitable considerations, but also by the requirement set forth in §522(b). Section 522*(l)* explicitly provides that "[t]he debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section." Subsection (b) limits exemptions claimed by the debtor to "any property that is exempt under federal law . . . or State or local law that is applicable on the date of the filing of the petition." 11 U. S. C. §522(b)(2)(A). When a debtor claims exemptions that do not even arguably satisfy this condition,[6] there is good reason to hold

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[5]The parties have stipulated that the debtor's case has never been closed. App. 56.

[6]The debtor's claimed exemptions in this case not only failed to satisfy any statutory basis, but also failed to provide even the basic information necessary to inform the trustee adequately about the exemption. For example, the debtor indicated on her Schedule B-4 Property Claimed As Exempt form that she was claiming the "[p]roceeds from lawsuit," but that the value was "unknown." App. 14–15. Although the value of the full award ended up amounting to $110,000, and only an amount of approximately $24,000 was required to satisfy the claims of all of her creditors, the debtor never amended her schedule to reflect the precise value of the award.

that the filing does not comply with §522 and therefore the 30–day objection period does not begin to run. As one court noted, "[i]f Debtor may select in any manner her exemptions, then no purpose is served by the inclusion of the . . . terms." *In re Kingsbury*, 124 B.R. 146, 148, n. 9 (Bkrptcy. Ct. Maine 1991). It declined to conclude that Congress added the requirements that the property be exempted "under federal law . . . or state law or local law" but "refused to grant them meaning." *Ibid*. (Emphasis omitted.)

The Court's disposition of this case is straightforward. Because it regards the meaning of the statute and rule as "plain," that is the end of the case. I have no doubt, however, that if the debtor or the trustee were guilty of fraud, the Court would readily ignore what it now treats as the insurmountable barrier of "plain meaning." The equities in this case are not as strong as if fraud were implicated, but our power to reach a just result despite the "plain meaning" barrier is exactly the same as it was in *Bailey* v. *Glover*, 21 Wall. 342 (1875). Here, as in *Bailey*, we should be guided by the common-law principles that have supported the tolling of other statutes of limitation, and, in addition, by the experience of bankruptcy courts that have recognized the need for a similar rule to achieve both equitable results and fair administration in cases of this kind. In my view, it is a mistake to adopt a "strict letter" approach, *id*., at 347, when justice requires a more searching inquiry. Accordingly, I respectfully dissent.