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 THOMAS delivered the opinion of the Court.

Section 522*(l)* of the Bankruptcy Code requires a debtor to file a list of the property that the debtor claims as statutorily exempt from distribution to creditors. Bankruptcy Rule 4003 affords creditors and the bankruptcy trustee 30 days to object to claimed exemptions. We must decide in this case whether the trustee may contest the validity of an exemption after the 30-day period if the debtor had no colorable basis for claiming the exemption.

The debtor in this case, Emily Davis, declared bankruptcy while she was pursuing an employment discrimination claim in the state courts. The relevant proceedings began in 1978 when Davis filed a complaint with the Pittsburgh Commission on Human Relations. Davis alleged that her employer, Trans World Airlines (TWA), had denied her promotions on the basis of her race and sex. The Commission held for Davis as to liability but did not calculate the damages owed by TWA. The Pennsylvania Court of Common Pleas reversed the Commission, but the Pennsylvania Commonwealth Court reversed that court and reinstated the Commission's determination of liability. TWA next appealed to the Pennsylvania

Supreme Court.

In October 1984, while that appeal was pending, Davis filed a Chapter 7 bankruptcy petition. Petitioner, Robert J. Taylor, became the trustee of Davis' bankruptcy estate. Respondents, Wendell G. Freeland, Richard F. Kronz, and their law firm, represented Davis in the discrimination suit. On a schedule filed with the Bankruptcy Court, Davis claimed as exempt property the money that she expected to win in her discrimination suit against TWA. She described this property as ``Proceeds from lawsuit — [Davis] v. TWA'' and ``Claim for lost wages'' and listed its value as ``unknown.'' App. 18.

Performing his duty as a trustee, Taylor held the required initial meeting of creditors in January 1985. See 11 U.S.C. §341; Bkrtcy. Rule 2003(a). At this meeting, respondents told Taylor that they estimated that Davis might win $90,000 in her suit against TWA. Several days after the meeting, Taylor wrote a letter to respondents telling them that he considered the potential proceeds of the lawsuit to be property of Davis' bankruptcy estate. He also asked respondents for more details about the suit. Respondents described the procedural posture of the case and expressed optimism that they might settle with TWA for $110,000.

Taylor decided not to object to the claimed exemption. The record reveals that Taylor doubted that the lawsuit had any value. Taylor at one point explained: ``I have had past experience in examining debtors . . . . [M]any of them . . . indicate they have potential lawsuits. . . . [M]any of them do not turn out to be advantageous and . . . many of them might wind up settling far within the exemption limitation.'' App. 52. Taylor also said that he thought Davis' discrimination claim against TWA might be a ``nullity.'' *Id.,* at 58.

Taylor proved mistaken. In October 1986, the Pennsylvania Supreme Court affirmed the Commonwealth Court's determination that TWA had discriminated against Davis. In a subsequent

settlement of the issue of damages, TWA agreed to pay Davis a total of $110,000. TWA paid part of this amount by issuing a check made to both Davis and respondents for $71,000. Davis apparently signed this check over to respondents in payment of their fees. TWA paid the remainder of the $110,000 by other means. Upon learning of the settlement, Taylor filed a complaint against respondents in the Bankruptcy Court. He demanded that respondents turn over the money that they had received from Davis because he considered it property of Davis' bankruptcy estate. Respondents argued that they could keep the fees because Davis had claimed the proceeds of the lawsuit as exempt.

The Bankruptcy Court sided with Taylor. It concluded that Davis had ``no statutory basis'' for claiming the proceeds of the lawsuit as exempt and ordered respondents to ``return'' approximately $23,000 to Taylor, a sum sufficient to pay off all of Davis' unpaid creditors. *In re Davis,* 105 B. R. 288 (WD Pa. 1989). The District Court affirmed, *In re Davis,* 118 B. R. 272 (WD Pa. 1990), but the Court of Appeals for the Third Circuit reversed, 938 F. 2d 420 (1991). The Court of Appeals held that the Bankruptcy Court could not require respondents to turn over the money because Davis had claimed it as exempt, and Taylor had failed to object to the claimed exemption in a timely manner. We granted certiorari, 502 U. S. —— (1991), and now affirm.

When a debtor files a bankruptcy petition, all of his property becomes property of a bankruptcy estate. See 11 U. S. C. §541. The Code, however, allows the debtor to prevent the distribution of certain property by claiming it as exempt. Section 522(b) allowed Davis to choose the exemptions afforded by state law or the federal exemptions listed in §522(d). Section 522*(l)* states the procedure for claiming exemptions and objecting to claimed exemptions as follows:

> ``The debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section. . . . Unless a party in interest objects, the property claimed as exempt on such list is exempt.''

Although §522*(l)* itself does not specify the time for objecting to a claimed exemption, Bankruptcy Rule 4003(b) provides in part:

> ``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) . . . unless, within such period, further time is granted by the court.''

In this case, as noted, Davis claimed the proceeds from her employment discrimination lawsuit as exempt by listing them in the schedule that she filed under §522*(l)*. The parties agree that Davis did not have a right to exempt more than a small portion of these proceeds either under state law or under the federal exemptions specified in §522(d). Davis in fact claimed the full amount as exempt. Taylor, as a result, apparently could have made a valid objection under §522*(l)* and Rule 4003 if he had acted promptly. We hold, however, that his failure to do so prevents him from challenging the validity of the exemption now.

Taylor acknowledges that Rule 4003(b) establishes a 30-day period for objecting to exemptions and that §522*(l)* states that ``[u]nless a party in interest objects, the property claimed as exempt . . . is exempt.'' He argues, nonetheless, that his failure to object does not preclude him from challenging the exemption at this time. In Taylor's view, §522*(l)* and Rule 4003(b) serve only to narrow judicial inquiry into the validity of an exemption after 30 days, not to preclude judicial inquiry altogether. In particular, he maintains that courts may invalidate a claimed exemption after expiration of the 30-day period if the debtor did not have a good-faith or reasonably disputable basis for claiming it. In this case, Taylor asserts, Davis did not have a colorable basis for claiming all of the lawsuit proceeds as exempt and thus lacked good faith.

Taylor justifies his interpretation of §522*(l)* by arguing that requiring debtors to file claims in good faith will discourage them from claiming meritless exemptions merely in hopes that no one will object. Taylor does not stand alone in this reading of §522(b). Several Courts of Appeals have adopted the same position upon similar reasoning. See *In re Peterson*, 920 F. 2d 1389, 1393–1394 (CA8 1990); *In re Dembs*,

757 F. 2d 777, 780 (CA6 1985); *In re Sherk*, 918 F. 2d 1170, 1174 (CA5 1990).

We reject Taylor's argument. Davis claimed the lawsuit proceeds as exempt on a list filed with the Bankruptcy Court. Section 522*(l)*, to repeat, says that ``[u]nless a party in interest objects, the property claimed as exempt on such list is exempt.'' Rule 4003(b) gives the trustee and creditors 30 days from the initial creditors' meeting to object. By negative implication, the Rule indicates that creditors may not object after 30 days ``unless, within such period, further time is granted by the court.'' The Bankruptcy Court did not extend the 30-day period. Section 522*(l)* therefore has made the property exempt. Taylor cannot contest the exemption at this time whether or not Davis had a colorable statutory basis for claiming it.

Deadlines may lead to unwelcome results, but they prompt parties to act and they produce finality. In this case, despite what respondents repeatedly told him, Taylor did not object to the claimed exemption. If Taylor did not know the value of the potential proceeds of the lawsuit, he could have sought a hearing on the issue, see Rule 4003(c), or he could have asked the Bankruptcy Court for an extension of time to object, see Rule 4003(b). Having done neither, Taylor cannot now seek to deprive Davis and respondents of the exemption.

Taylor suggests that our holding will create improper incentives. He asserts that it will lead debtors to claim property exempt on the chance that the trustee and creditors, for whatever reason, will fail to object to the claimed exemption on time. He asserts that only a requirement of good faith can prevent what the Eighth Circuit has termed ``exemption by declaration.'' *Peterson*, 920 F. 2d, at 1393. This concern, however, does not cause us to alter our interpretation of §522*(l)*.

Debtors and their attorneys face penalties under

various provisions for engaging in improper conduct in bankruptcy proceedings. See, *e.g.*, 11 U. S. C. §727(a)(4)(B) (authorizing denial of discharge for presenting fraudulent claims); Rule 1008 (requiring filings to ``be verified or contain an unsworn declaration'' of truthfulness under penalty of perjury); Rule 9011 (authorizing sanctions for signing certain documents not ``well grounded in fact and . . . warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law''); 18 U. S. C. §152 (imposing criminal penalties for fraud in bankruptcy cases). These provisions may limit bad-faith claims of exemptions by debtors. To the extent that they do not, Congress may enact comparable provisions to address the difficulties that Taylor predicts will follow our decision. We have no authority to limit the application of §522*(l)* to exemptions claimed in good faith.

Taylor also asserts that courts may consider the validity of the exemption under a different provision of the Bankruptcy Code, 11 U. S. C. §105(a), despite his failure to object in a timely manner. That provision states:

> ``The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. *No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action* or making any determination necessary or appropriate to enforce or implement court orders or rules, or *to prevent an abuse or process*.'' §105(a) (emphasis added).

Although Taylor stresses that he is not asserting that courts in bankruptcy have broad authorization to do equity in derogation of the code and rules, he maintains that §105 permits courts to disallow

exemptions not claimed in good faith. Several courts have accepted this position. See, *e. g.*, *Ragsdale* v. *Genesco, Inc.*, 674 F. 2d 277, 278 (CA4 1982); *In re Staniforth*, 116 B. R. 127, 131 (WD Wis. 1990); *In re Budinsky*, No. 90–01099, 1991 WL 105640 (WD Pa. June 10, 1991).

We decline to consider §105(a) in this case because Taylor raised the argument for the first time in his opening brief on the merits. Our Rule 14.1(a) makes clear that ``[o]nly the questions set forth in the petition [for certiorari], or fairly included therein, will be considered by the Court,'' and our Rule 24.1(a) states that a brief on the merits should not ``raise additional questions or change the substance of the questions already presented'' in the petition. See *Yee* v. *Escondido*, 503 U. S. ——, —— (1992). In addition, we have said that ``[o]rdinarily, this Court does not decide questions not raised or resolved in the lower court[s].'' *Youakim* v. *Miller*, 425 U. S. 231, 234 (1976) *(per curiam)*. These principles help to maintain the integrity of the process of certiorari. Cf. *Oklahoma City* v. *Tuttle*, 471 U. S. 808, 816 (1985). The Court decides which questions to consider through well-established procedures; allowing the able counsel who argue before us to alter these questions or to devise additional questions at the last minute would thwart this system. We see no ``unusual circumstances'' that warrant addressing Taylor's §105(a) argument at this time. *Berkemer* v. *McCarty*, 468 U. S. 420, 443, n. 38 (1984).

The judgment of the Court of Appeals is

Affirmed.