

COVER PAGE

No. 19-67710 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supr. Ct. U.S.
19-67710

SEP 14 2019

OFFICE OF THE CLERK
Pro Se Petitioner,

LARRY WAYNE PARR

Respondent.

vs

SIMON E. RODRIGUEZ

On Petition For Writ of Certiorari
To The United States Court of Appeals
For The Tenth Circuit Court

PETITION FOR WRIT OF CERTIORARI

10TH CIRCUIT CIVIL ACTION No. 19-1053
BAP No. 18-084-CO
BANKRUPTCY COURT No. 15-14201 CHAPTER 7

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QUESTIONS PRESENTED

1. Due to The Fact Larry Parr's business and business assets were in The LARRY W. PARR LIVING TRUST, do these facts make The LARRY W. PARR LIVING TRUST a "business trust" as defined in USC § 101. (9)(v).
2. If The LARRY W. PARR LIVING TRUST is a "business trust" as defined in USC § 101. (9)(v), does this fact make The LARRY W. PARR LIVING TRUST a "corporation" as defined in USC § 101. (9)(v).
3. Since The LARRY W. PARR LIVING TRUST has neither capital stock nor investors, do these facts mean The LARRY W. PARR LIVING TRUST is not a "moneyed, business, or commercial corporation".
4. Since The BAP recognized The LARRY W. PARR LIVING TRUST and Larry Parr are the same Debtor for purposes of The Colorado Homestead Exemption and Bankruptcy Procedures, do these facts make Larry Parr and The LARRY W. PARR LIVING TRUST The same Debtor for purposes of Bankruptcy Procedures.
5. Since The U.S. Trustee was allowed to revoke The LARRY W. PARR LIVING TRUST to pay off Larry Parr's Creditors, does this fact make Larry Parr and The LARRY W. PARR LIVING TRUST The same Debtor for purposes of Bankruptcy Procedures.
6. If Larry Parr and The LARRY W. PARR LIVING TRUST are The same Debtor for purposes of Bankruptcy, was The Bankruptcy Court required to possess proof The LARRY W. PARR LIVING TRUST was a moneyed business/corporation

prior to converting The Chapter 11 to a 7 without Movant making The Request.

7. Did The Bankruptcy Court violate 11 USC § 1112. Conversion or dismissal (c) when it converted The Larry Parr/LARRY W. PARR LIVING TRUST Chapter 11 to a Chapter 7 without Larry Parr/LARRY W. PARR LIVING TRUST making such request as required by 11 USC § 1112. Conversion or dismissal (c).

PARTIES TO THE PROCEEDINGS

PETITIONERS:

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STATUTES:

- a) USC § 101. (9)(v):

“The term “corporation”— (A) includes—(v) business trust”.

Referenced in Brief Pgs 4, 6, 8, 13

- b) 11 USCS § 1112. Conversion or dismissal (c).

The court may not convert a case under this chapter [11 USCS §§ 1101 et seq.] to a case under chapter 7 of this title [11 USCS §§ 701 et seq.] if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.”

Referenced in Brief Pgs 2, 3, 4, 5, 9, 11, 12, 13, 14, 15

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- a) *In re Allen University*, 497 F.2d 346· 1974

Referenced in Brief Pg 9

- b) *Law v. Siegel*, 571 U.S. 415

Referenced in Brief Pg 15

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

BRIEF

JURISDICTION

1. This Matter stems from The Tenth Circuit Bankruptcy Court, The Tenth Circuit BAP and The Tenth Circuit Court's June 26 of 2019 Order Affirming the BAP.
2. This Matter deals with The Bankruptcy Court's alleged power to convert a non-moneyed corporation's Chapter 11 to a Chapter 7 without The Request from The non-moneyed corporation as required by 11 USCS § 1112. Conversion or dismissal (c).
3. This Matter deals with possible contradictions between The 4TH Circuit Court's and 10th Circuit Court's understanding and application of 11 USCS § 1112. Conversion or dismissal (c).

APPARENT 4TH CIRCUIT'S AND 10TH CIRCUIT'S CONTRADICTIONS

1. The 4TH Circuit's interpretation of 11 USCS § 1112. Conversion or dismissal (c):
According to the 4TH Circuit the actual character and activities of the Debtor corporation determines whether it is a moneyed corporation. The 4TH Circuit determined that without proof the Chapter 11 Petitioner is a moneyed corporation the Court cannot convert Petitioner's Chapter 11 to a 7.
It appears to the 4TH Circuit that the Facts is what determines whether or not

The Court has the power to convert a Chapter 11 to a 7 and it also appears that whoever moved the Court for The conversion bared the Burden of proving the required Elements.

2. 10TH Circuit's interpretation of 11 USCS § 1112. Conversion or dismissal (c):

According to the 10TH Circuit, if The Chapter 11 Petitioner does not claim to be a corporation, The Bankruptcy Court is free to convert The 11 to a 7 even if The Chapter 11 Petitioner is in fact a corporation.

According to the 10TH Circuit, even though The Creditor's Motion to convert Movant's Chapter 11 to a 7 admits the debtor is "*the Larry W. Parr Living Trust*" (Case:15-14201-JGR Doc#:109-2015-06-26th- Appendix Pg 44 Point 7), The Bankruptcy Court however, never inquired into whether The LARRY W. PARR LIVING TRUST (Appendix Pg 6) was a moneyed corporation, nor was any evidence presented in the Motion or at any hearing proving The Trust was or was not a corporation or whether it was or was not a moneyed corporation.

It is therefore undeniable The Bankruptcy Court knew Larry Parr and The Trust were one of the same, but chose to make the conversion without inquiring into whether The LARRY W. PARR LIVING TRUST was in fact a moneyed corporation.

STATUTORY PROVISIONS

- 11 USCS § 1112. Conversion or dismissal (c).
(c) The court may not convert a case under this chapter [11 USCS §§ 1101 et seq.] to a case under chapter 7 of this title [11 USCS §§ 701 et seq.] if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.
- USC § 101. (9)(v) which reads:
"The term "corporation"— (A) includes—(v) business trust".
=====

INTRODUCTION

LARRY WAYNE PARR, as The Movant, is reaching out to this Court so it may address the application of 11 USCS § 1112. Conversion or dismissal (c) and The meaning of "moneyed, business, or commercial corporation". The Tenth Circuit's Courts appear to be exercising 11 USCS § 1112. Conversion or dismissal (c) differently than The Courts of the 4TH Circuit.

FACTS:

A. On 2000-12-29th Movant executed The LARRY W. PARR LIVING TRUST.

(Original Copy cannot be found)

➤ This proves The Trust had been operating years before The Bankruptcy Case.

B. On 2001-02-14th Movant executed a GENERAL WARRANTY DEED-Appendix Pg 4 granting 2710 W. UNION AVE to The LARRY W. PARR LIVING TRUST.

- This proves The Trust had been operating as a “business trust” for over Ten years prior to filing The Chapter 11 Bankruptcy.

C. On 03-02-06th Movant incorporated ARAPAHOE STORAGE INC-AOI-Appendix Pg 5.

- This proves ARAPAHOE STORAGE INC operated on 2690 and on 2710 W. Union Ave by Renting out RV Storage Spaces. As of 03-02-06th, 2710 W. Union Ave was owned by The LARRY W. PARR LIVING TRUST which managed all business transacted with ARAPAHOE STORAGE INC.

This further proves The LARRY W. PARR LIVING TRUST was a “business trust” and therefore a “corporation” for purposes of 11 USCS § 1112.

Conversion or dismissal (c).

D. On 2006-09-14th Movant executed The AMENDED LARRY W. PARR LIVING TRUST-Appendix Pg 6 which continued to act as non-moneyed “business trust”.

- The Trust proves it was created to act as a non-moneyed business Trust. Under Section 12. Business Powers of this Trust, Page 7, the following appears:

“The Trustee may retain and continue any business in which Settlor shall have an interest as a shareholder, partner or otherwise, even though it may constitute all or a large portion of the trust estate; participate in the conduct of any such business or employ others to do so;”

- This proves The Trust was authorized to act as a Business. ARAPAHOE STORAGE INC continued operating its business with The LARRY W. PARR

LIVING TRUST. This Fact also proves The LARRY W. PARR LIVING TRUST was a “business trust/corporation” as defined in USCS § 101. (9)(v).

E. On 2015-04-21st Movant files his voluntary Chapter 11 Petition as an Individual and lists 2710 W. Union Ave as his Street Address, Chapter 11 Petition Case:15-14201-JGR Doc#:2-Appendix Pg 35.

➤ This proves The listing of 2710 W. Union Ave as Movant’s Address was incorporated into The LARRY W. PARR LIVING TRUST, a business trust which owned 2710 W. Union Ave thereby directly connecting Larry Parr to The LARRY W. PARR LIVING TRUST.

F. On 2015-04-30th a Colorado State Court issues an Order granting \$1,949,070.79 to Dennis Parr. DISTRICT COURT, ARAPAHOE COUNTY, COLORADO, JUDGMENT-Appendix Pg 40.

This Order was issued against *“Larry W. Parr, individually, the Larry W. Parr Living Trust, and Arapahoe Storage Inc., jointly and severally, in the following amount.”*

➤ This Order proves Larry Parr, The LARRY W. PARR LIVING TRUST and ARAPAHOE STORAGE INC was considered by Dennis Parr and by The Colorado Court to be one Person, therefore The Bankruptcy Court was required at a minimum to inquire as to whether The LARRY W. PARR LIVING TRUST was a moneyed business, an inquiry which never took place.

G. On 2015-06-26 a Motion was filed by Dennis Parr to convert Movant’s Chapter

11 to a Chapter 7, MOTION TO CONVERT Case:15-14201-JGR Doc#:109-

Appendix Pg 43. This Motion contained the Following which required The Bankruptcy Court to inquire into whether The LARRY W. PARR LIVING TRUST was a “business trust”:

“7. On April 30, 2015, the District Court entered a Findings and Order along with a Judgment (collectively, the “Judgment Orders”) in the Lawsuit. The Judgment Orders entered a judgment in favor of Dennis and against the Debtor, the Larry W. Parr Living Trust, a trust which was established by the Debtor and of which the Debtor is the Trustee and the sole beneficiary (the “Trust”), and Arapahoe Storage, Inc., an entity which is managed by the Debtor and of which the Debtor is an owner (“Storage”), jointly and severally in the amount of \$1,949,070.79, plus interest thereon at the rate of 8% compounded annually, plus reasonable attorneys’ fees and costs.”

➤ This Motion proves it was common knowledge Larry Parr and The LARRY W. PARR LIVING TRUST were essentially the same person. This Motion also proves it was common knowledge ARAPAHOE STORAGE INC was being managed by The LARRY W. PARR LIVING TRUST. This Motion additionally proves The \$1,949,070.79 Colorado Court Judgment was entered against Larry Parr and The LARRY W. PARR LIVING TRUST, therefore The Bankruptcy Court was required at a minimum to inquire into whether The LARRY W. PARR LIVING TRUST was a “business trust” prior to Ordering The 11 to 7 conversion in the absence of a request for such conversion by The Debtor.

H. On 2015-07-21st The Bankruptcy Court granted Dennis Parr’s Motion to convert Larry Parr’s Chapter 11 to a 7, ORDER TO CONVERT 15-14201-JGR Doc#:126-

Appendix Pg 57. Per the Minutes of That Hearing, HEARING MINS·Case:15-14201-JGR Doc#:125·Appendix Pg 55, The Order was issued pursuant to Dennis Parr's Motion and pursuant to "*a lack of objection filed thereto.*"

➤ The Order and The Minutes prove The Court did not consider whether The Debtor was a moneyed business or whether The Court required a request from Movant.

I. On 2018-01-26th The 10TH Circuit BAP upheld Larry Parr's Colorado Homestead Exemption by ruling, BAP ORDER Case:15-14201-JGR Doc#:337·Appendix Pg 58,:

"We REVERSE the bankruptcy court's order denying Parr a homestead exemption because we hold that, as a matter of Colorado law, an otherwise qualified Colorado debtor may exempt a homestead interest in property that is held in a self-settled revocable living trust."
(Appendix Pg 72)

In this Ruling The BAP recognized The Trust was not separable from Larry Parr.

➤ This Ruling proves The LARRY W. PARR LIVING TRUST was a mere "business trust" and therefore a corporation per 11 USC § 101. (9)(v).

J. On 2018-04-02nd Movant filed his DEMAND TO REVERT MOVANT'S CHAPTER 7 TO CHAPTER 11 DUE TO ORDER DOC#:126 BEING VOID OF LAW·Appendix Pg 73. The Failure of The Bankruptcy Court to require evidence which proved The Debtor was or was not a moneyed business has led Movant to this Supreme Court.

➤ This Demand proves Movant presented to The Bankruptcy Court all it

needed to revert the Chapter 7 to its original Chapter 11 status.

The Following was included in the Demand:

“A. It is undeniable under 11 USCS § 1112. Conversion or dismissal

Required JUDGE BROOKS obtain Movant’s request/consent prior to

converting Movant’s Chapter 11 to a Chapter 7:

a) 11 USCS § 1112. Conversion or dismissal prevented such conversion:

i. *“(c) The court may not convert a case under this chapter to a case under chapter 7 of this title if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.”*

11 USCS § 1112. Conversion or dismissal (c) is therefore a jurisdictional

requirement.

It is therefore undeniable JUDGE BROOKS converted Movant’s Chapter 11

to a Chapter 7 contrary to 11 USCS § 1112. Conversion or dismissal (c) and

therefore without Jurisdiction.

B. It is undeniable MR. BROOKS converted Movant’s Chapter 11 to a

Chapter 7 knowing Movant’s business was not a “*moneyed business*”.

a) The Record is absent of the Elements which would constitute Movant a moneyed business/corporation, therefore the conversion of Movant’s Chapter 11 to a Chapter 7 without Movant’s request/consent and without the Elements which constitute a moneyed business/corporation:

i. In re Allen University, 497 F.2d 346- 1974 - United States Court of Appeals for the Fourth Circuit; May 16, 1974, Decided:

*"By judicial interpretation, the phrase "moneyed, business, or commercial corporation" has acquired a meaning which limits it to corporations organized for profit. See *Hoile v. Unity Life Ins. Co.*, 136 F.2d 133, 135 (4th Cir. 1943). Although *Allen University* has been chartered as a corporation, as the petition alleges, there is neither capital stock [**6] in the corporation nor a return of capital to investors outstanding. Indeed, the record discloses no investors."*

- The Record is absent of these Elements which would constitute Movant being a moneyed corporation/business, therefore the conversion of Movant's Chapter 11 to a Chapter 7 was done without Congressional Authority.

K. On 2018-06-13th a hearing was held by The Bankruptcy Court on Movant's DEMAND TO REVERT MOVANT'S CHAPTER 7 TO CHAPTER 11, however because Movant was improperly notified of the Hearing, the hearing was rescheduled, however The Judge made the following observation which is telling of what appears to have been a prearrangement by The opposing Attorneys:

The Judge speaking, 2018-06-13th HEARING TRANSCRIPT Pg 96:

"There are no parties or attorneys in the courtroom, and I know that there are people on the phone." (Pg 97 Lines 13-15)

It is obvious none of the Opposing Attorneys intended to attend the hearing, and it is obvious the Opposing Attorneys intended for The Judge to rule against Larry Parr for Larry Parr's failure to appear at the Hearing, a clear example of abuse of a pro se bankrupt, never the less a new Hearing was scheduled for July 25TH of 2018.

L. On 2018-07-25TH a new hearing was held (Appendix Pg 110), and all Attorneys attended, not by phone, but in person, meaning they knew Larry Parr had

received the Notice for the New Hearing.

The Judge set the tone of the hearing with the following statement:

"Mr. Parr, you're going to -- when we get to that part of the hearing, you go first. You have the burden of proof."

2018-7-25TH HEARING TRANSCRIPT Pg 4 Lines 9-10- Appendix Pg 110.

It is critical for This Court to Note, Neither Larry Parr nor any other Party to this Case had any new fact which could be added to the Record. Larry Parr made it clear all the facts etc were in the record and that is what was before the Court. Larry Parr said The Following at the Hearing:

"Your Honor that the court documents that I've been filing for the last year -- close to two years speak for me personally, and I have no further comment."

2018-7-25TH HEARING TRANSCRIPT Pg 5 Lines 2-4 Appedix Pg 111. Movant believes the only records/evidence which mattered was the Court Record, Movant had no new evidence to present nor could he. The US Trustee was also unable to present any new evidence which could be of any relevance.

➤ This Hearing proved there was no evidence which proved The Conversion was done in harmony with USCS § 1112. Conversion or dismissal (c) because no evidence was presented which proved Larry Parr and The LARRY W. PARR LIVING TRUST were not the same Person, or that The LARRY W. PARR LIVING TRUST was a moneyed business.

M. On 2018-08-02nd The Bankruptcy Court refused to recognize a violation of USCS § 1112. Conversion or dismissal (c), BANKRUPTCY COURT ORDER Case:15-14201-JGR Doc#:394-Appendix Pg 162, had taken place in the unrequested

conversion of Movant' 11 to 7.

N. On 2019-01-30th The BAP refused to recognize a violation of USCS § 1112 (c).

Conversion or dismissal (c), BAP Appeal No. 18-84 Docket No. 39 Appendix Pg 163, had taken place in the unrequested conversion of Movant' 11 to 7.

The BAP dismissed Movant's claim USCS 11 § 1112 (c) had been violated with the following conclusion:

"As there is no evidence in the record to support finding the Debtor is a farmer or not a moneyed, business, or commercial corporation, § 1112(c) does not apply."

➤ The BAP's Order proves The burden of Law was shifted to Movant and away from The Bankruptcy Court which had a Duty to obey 11 USCS § 1112. (c).

O. On 2019-06-26th The Tenth Circuit affirmed the BAP's conclusions, TENTH CIRCUIT Case: 19-1053 Document: 010110187901 Appendix Pg 181

The Tenth Circuit however made the following conclusion, Pg 4-5 :

"But as the BAP explained, this argument misconstrues § 1112(c); that provision only prohibited the bankruptcy court from converting Parr's case in the absence of a request from Parr if, as a threshold matter, Parr was a farmer or a corporation." (Appendix 185)

➤ The Facts and Law prove Larry Parr as The LARRY W. PARR LIVING TRUST was a corporation but not a moneyed corporation, therefore 11 USCS § 1112. (c) *"prohibited the bankruptcy court from converting Parr's case in the absence of a request from Parr."*

STATEMENT OF THE CASE

Larry Parr's Voluntary Chapter 11 Case was involuntarily converted to a Chapter 7 Case pursuant to a single Creditor's Motion to convert, 2015-06-26
MOTION TO CONVERT Case:15-14201-JGR Doc#:109-Appendix pg 43, without Larry Parr requesting The Conversion and without The LARRY PARR LIVING TRUST requesting the conversion.

11 USCS § 1112. Conversion or dismissal (c) reads in part:

11 USCS § 1112. (c) The court may not convert a case under this chapter [11 USCS §§ 1101 et seq.] to a case under chapter 7 of this title [11 USCS §§ 701 et seq.] if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.”

In The Instant Case The “debtor” was LARRY WAYNE PARR, an Individual, and as The LARRY W. PARR LIVING TRUST, a corporation per USCS § 101. (9)(v)

“(9) The term “corporation”—(A) includes—(v) business trust”, neither of which was proven to be “a moneyed, business, or commercial corporation”.

Movant understands The LARRY W. PARR LIVELIHOOD TRUST to be a “business trust”: BALLENTINES DICTIONARY – Business trust

“1. Otherwise known as a Massachusetts trust or common-law trust. A form of business organization consisting essentially of an arrangement whereby property is conveyed to trustees, in accordance with the terms of an instrument of trust, to be held and managed for the benefit of such persons as may from time to time be the holders of transferable certificates issued by the trustees showing the shares into which the beneficial interest in the property is divided. Hecht v Malley, 265 US 144, 68 L Ed 949, 44 S Ct 462 an unincorporated business organization created by an instrument, by which property is to be held and managed by trustees for the benefit and profit of such persons as may be or may become the holders of transferable certificates

evidencing the beneficial interests in the trust estate. 13 Am J2d Bus Tr § 1; a convenient method by which persons become associated for dealings in real estate, the development of tracts of land, the construction of improvements and the purchase, management and sale of properties. 2. An organization within the meaning of the Uniform Commercial Code; an association, for the purpose of taxation under the Internal Revenue Code, where created for the transaction of business."

Because The conversion was done without Larry Parr's Request and without The LARRY W. PARR LIVING TRUST's Request, The conversion was ordered by The Bankruptcy Court while it lacked jurisdiction and authority to do so, thereby making the conversion a nullity.

REASONS FOR GRANTING THE PETITION

It is crucial The Bankruptcy Courts obey The Law due to The Fact many people enter such Courts pro se. Failure on the part of The Courts to follow the law places the pro se bankrupt at the mercy of opposing Attorneys who wish to take advantage of such a bankrupt.

Clarifying the fact that a person filing his/her Chapter 11 as an Individual does not deny that Person The protection from 11 USCS § 1112. (c) when such Person, as in The Case of LARRY PARR is in fact a corporation which cannot have its Chapter 11 converted into a Chapter 7 without The corporation's Agent making such request, in the instant case it cannot be denied Larry Parr was The Agent for The LARRY W. PARR LIVING TRUST.

LARRY PARR'S CONTENTIONS

- 1) Larry Parr contends that although his Voluntary Chapter 11 Petition was filed as an Individual, he was in fact The Agent for The LARRY W. PARR LIVING TRUST and Larry Parr in fact embodied the LARRY W. PARR LIVING TRUST, which is by Definition and by Facts a non-moneyed corporation which cannot be converted to a Chapter 7 Petition without Larry Parr's Request.
- 2) Larry Parr contends 11 USCS § 1112. Conversion or dismissal (c) requires The Bankruptcy Courts to obtain The Chapter 11 Petitioner's Request prior to converting to a Chapter 7 any corporation that is not a moneyed, business, or commercial corporation.
- 3) Larry Parr contends The Bankruptcy Court did not follow The Law as instructed by Law v. Siegel, 571 U.S. 415:

*"But in exercising those statutory and inherent powers, a bankruptcy court may not contravene specific statutory provisions. It is hornbook law that §105(a) "does not allow [****11] the bankruptcy court to override explicit mandates of other sections of the Bankruptcy Code."*

Larry Parr's CONCLUSION

The Bankruptcy Court ORDER Doc #126, which granted The 11 to 7 conversion was issued without Congressional authority, therefore ORDER Doc #126 is void along with The Chapter 7 Proceedings it created, thereby requiring the case to be remanded to its original Chapter 11 Status.

REMEDY DEMANDED

1. For The Bankruptcy Court ORDER Doc #126 be declared void along with The Chapter 7 proceeding it created and for Case No. 15-14201 be remanded to its original Chapter 11 Status.
2. For The Parties who caused the unlawful conversion of Movant's Chapter 11 to a Chapter 7 be Ordered Liable for the Cost Required to indemnify Movant as Movant stood on April 21st of 2015.

END OF BRIEF

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