

NO. 24-5764

ORIGINAL

FILED
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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

EVA CARMACK,

Petitioner,

v.

GARY CARMACK,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE U.S. COURT OF APPEALS OF THE ELEVENTH CIRCUIT

PETITION FOR REHEARING

EVA CARMACK, Pro Se,

[REDACTED]
Orlando, FL 32814

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SUPREME COURT, U.S.

Pursuant to Supreme Court Rules 29, 39, and 44, Eva Carmack, Petitioner, humbly requests this Court to reconsider its January 13, 2025 denial of the Petition for Writ of Certiorari. The decision below conflicts with established precedent and deepens an existing circuit split concerning bankruptcy standing, jurisdiction, and post-discharge collection efforts. The Eleventh Circuit's ruling undermines the integrity of bankruptcy protections by allowing a debtor who failed to disclose a claim to later litigate and attempt to collect on that claim post-discharge, in direct violation of 11 U.S.C. §§ 541, 362, and 524.

GROUNDS FOR RECONSIDERATION

I. The Eleventh Circuit's Decision Conflicts with Precedent from Other Circuits on Standing and Jurisdiction

The Eleventh Circuit panel ignored longstanding bankruptcy principles by permitting Respondent, who failed to disclose his claim, to continue unlawful collection efforts in state court during the bankruptcy proceedings and after both discharges. As a result, the panel concluded that Respondent's failure to schedule the asset did not affect subject matter jurisdiction and that the issue of "standing" was irrelevant to his pursuit of the estate claim. This ruling directly contradicts decisions from other circuits:

1. Tenth Circuit: *Hafen v. Adams*, 616 B.R. 570 (10th Cir. 2020) — Held that state courts lack jurisdiction over claims belonging to the bankruptcy estate,

reinforcing that standing to litigate estate property rests exclusively with the bankruptcy trustee.

2. Sixth Circuit: *In re Cundiff*, 227 B.R. 476 (B.A.P. 6th Cir. 1998) — Concluded that a debtor who fails to disclose a claim lack standing to litigate or collect on it.
3. Eleventh Circuit (prior ruling): *Parker v. Wendy's Int'l, Inc.*, 365 F.3d 1268 (11th Cir. 2004) — Previously held that non-disclosed claims become estate property, and only the trustee has standing to pursue them. Yet, in Petitioner's case, the Eleventh Circuit disregarded this principle, permitting the Respondent to continue state court litigation on a claim he no longer owns.

This deepens a circuit split and creates uncertainty in bankruptcy proceedings, making this an issue of national importance warranting review.

II. The Decision Violates the Bankruptcy Code's Core Protections

The automatic stay (§ 362) and discharge injunction (§ 524) are cornerstones of bankruptcy relief, yet the Eleventh Circuit panel failed to enforce them and estop dishonest litigant from the further proceedings. Specifically:

1. Respondent violated the automatic stay by continuing litigation and collection efforts during bankruptcy proceedings.
2. Respondent violated the discharge injunction by pursuing collection post-discharge, despite lacking standing to do so.

3. The bankruptcy and appellate courts improperly excused these violations, creating a dangerous precedent that rewards non-disclosure and allows bad-faith debtors to evade their obligations.

This ruling allows discharged debtors to weaponize state courts against those who are entitled to bankruptcy protections, contradicting this Court's precedent that bankruptcy laws must be "liberally construed in favor of debtors" to provide them with a fresh start. See *Local Loan Co. v. Hunt*, 292 U.S. 234, 244 (1934).

III. The Eleventh Circuit's Decision Deprives Petitioner of Due Process

By allowing Respondent, who lacks standing, to litigate a bankruptcy estate claim in state court, the lower courts have denied Petitioner fundamental fairness and due process. This decision forces Petitioner to defend herself for over four years against improper litigation brought by a party with no financial responsibility for the bankruptcy claim, in a state court that lacks jurisdiction. Furthermore, it deprives her of the protections guaranteed by the Bankruptcy Code.

If left uncorrected, this ruling sets a dangerous precedent. It encourages debtors who conceal claims, mislead the bankruptcy and state courts, and defraud their creditors, to exploit the judicial system at the expense of innocent parties.

CONCLUSION

This case presents an issue of national importance concerning bankruptcy standing, judicial estoppel, and the enforcement of core bankruptcy protections. The

Court should reconsider its denial of certiorari and grant the petition to resolve the conflict between circuits and prevent further erosion of bankruptcy protections.

Respectfully submitted,

/s/ Eva Carmack
Eva Carmack, Pro Se

This 7th day of February, 2025.

CERTIFICATE OF GOOD FAITH

The undersigned hereby certifies that this Petition for Rehearing complies with the grounds specified in Rule 44.2 of the Rules of the Supreme Court and is presented in good faith and not for delay.

/s/ Eva Carmack
Eva Carmack, Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February, 2023, I caused three copies of the Petition for rehearing to be served by third-party United States mail on the counsel identified below, and caused an electronic version to be transmitted to the counsel identified below, pursuant to Rule 29.5 after Rules of this Court. All parties required to be served have been served.

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