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NO.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

DEC - 4 2024

OFFICE OF THE CLERK

_____ ^ _____

JORGE L. QUINTANA, SR.,

Petitioner,

Vs.

TANYA HOLZHAUS, IN HER INDIVIDUAL AND OFFICIAL CAPACITIES,
AND STEWART TITLE COMPANY,

Respondent.

_____ ^ _____

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE STATE OF TEXAS

_____ ^ _____

BRIEF OF THE APPELLANT

_____ ^ _____

JORGE L. QUINTANA, SR.

Petitioner Pro Se

1778 Branch Vine Drive West

Jacksonville, Florida 32246

princejorge.it@gmail.com

=====

QUESTION PRESENTED

Debtors who file for bankruptcy protection are permitted to claim property exemptions pursuant to 11 U.S.C. § 522. In § 522(a)(2) and (l), Congress delegated to the States virtually complete control over how to strike the appropriate balance between the interests of debtors and the rights of creditors in this arena of property rights. Most states have homestead exemptions that protect home ownership and allow a debtor to keep the exempted homestead. The Supreme Court has held that when a debtor claims a state-created property exemption, the scope of the exemptions is determined by state law. *Law v. Siegel*, 134 S. Ct. 1188 (2014)

The question presented is:

Whether individual states can set the parameters of a homestead exemption provided to the citizens of that state or does the filing of a bankruptcy petition remove a state's ability to set conditions on the use of exempt proceeds from the sale of homestead property thus allowing individuals to use the proceeds in any manner they desire. In other words, do states get to set homestead exemptions that allow individuals who file bankruptcy, or do individuals who file bankruptcy have more rights than individuals who do not seek bankruptcy relief?

Whether the bankruptcy court has jurisdiction after the bankruptcy court dismissed the trustee's objection to the exemption on March 7, 2019, to an extension without a trustee motion or appeal to file objections to exemptions after the expiration of the thirty days prescribed by Bankr. Rule 4003(b)...*Matter of Stoulig*, 45 F.3d 957 (5th Cir. 1995)?

Whether the trustee has the right to sell an exempted home after the homestead was bankruptcy-ordered exempted, denying the trustee to collect

trustee administrative fees and trustee attorney fees under 11 U.S.C. § 522(k)...Law v. Siegel, 134 S. Ct. 1188 (2014)?

LIST OF THE PARTIES

Petitioner:

Jorge L. Quintana, Sr.
1778 Branch Vine Drive West
Jacksonville, Florida 32246
princejorge.it@gmail.com

Responders:

Tanya Holzhau
1201 Fiorella Street Suite D
Castroville, Texas 78009
1(830)931-3421

Stewart Title Company
1201 Fiorella Street Suite D
Castroville, Texas 78009
1(830)931-3421

RULE 29.6 STATEMENT

The Petitioner is an individual and is not a nongovernmental or private corporation. The Petitioner does not have a parent corporation or share help from a publicly traded company.

ORAL ARGUMENT REQUESTED

The Petitioner requests for oral argument upon the time court's discretion.

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CITATION OF THE OFFICIAL AND UNOFFICIAL REPORTS

Quintana v. Holzhaus

(04-23-00599-CV) S.W.3d, decided March 13, 2024.

STATEMENT OF THE BASIS FOR JURISDICTION

The basis for the jurisdiction of the United States Court in hearing this case is under Article III, Section II of the United States Constitution to review the decision of the State of Texas Supreme Court that includes a judgment of the Texas State Court ruling in a mandatory final exemption order of the United States Bankruptcy Court for the Western District of Texas that exempt the Petitioner Texas homestead in its entirety.

Article III, § 2, Clause 2 of the United States Constitution, the United States Bankruptcy Codes as 11 U.S.C. § 522(a)(1), § 522(c), § 522(k), § 522(l), the Texas Constitution Article 16 Section 50 establishes and guarantees the right of the homestead and prescribes the nature and extent of the homestead exemption and the statutory Section 41.002 were enacted by the Texas legislature which statutorily sets out the homestead exemption. The decision and order of this court are outlined in, Law v. Siegel, 134 S. Ct. 1188 (2014).

CONSTITUTIONAL PROVISIONS

Article III, Section I of the United States states, "The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may occasionally ordain and establish." The United States Constitution establishes the United States Supreme Court, it permits Congress to decide how to organize it. The trustee was dismissed as moot on March 7, 2019, and never appealed the exemption final order.

STATEMENT OF THE CASE

The Bankruptcy Code authorizes debtors to claim state-law property exemptions that protect specific categories of property from prepetition creditors. 11 U.S.C. 522(b)(2) and (3). Most states have enacted homestead exemption, which shields creditors from all or some of a debtor's equity in a primary residence. Some States have also enacted a related proceeds exemption, which allows a debtor to exempt the proceeds from selling a homestead. Generally, an individual debtor may voluntarily convert a case between Chapters 13 and 7. 11 U.S.C. 706(a), 1307(a). A court may also dismiss a Chapter 13 proceeding or convert it to Chapter 7 "for cause." 11 U.S.C. 1307(c). The Petitioner's case was converted. Under both Chapter 13 and Chapter 7, a debtor may exempt certain property types from the estate. "An exemption is an interest withdrawn from the estate (and hence from the creditors) for the debtor's benefit." Owen v. Owen, 500 U.S. 305, 307-308, 111 S.Ct. 1833, 1835, 114 L. Ed. 2d 350 (1991).

Generally speaking, exempted property "is not liable during or after the case for any debt of the debtor that arose * * * before the commencement of the case." 11 U.S.C. 522(c).

A debtor claims an exemption by filing "a list of property that the debtor claims as exempt." 11 U.S.C. 522(l). The list may contain "any property that is exempt on the filing date of the petition," and "[a]ny dispute as to the debtor's eligibility for an exemption in such property likewise is determined based on the law and facts that are applicable as of the petition date." 4 Collier on Bankruptcy 522.05[1], at 522-32 (Richard Levin & Henry J. Sommer eds., 16th ed. 2022). "Unless a party in interest objects," "the property claimed as exempt on such a list is exempt." 11 U.S.C. 522(l). Stewart Title Company was never approved by

the bankruptcy and never was a bankruptcy party of interest, Stewart Title Company is a minion that assists the Chapter 7 Trustee in committing a crime under the umbrella of bankruptcy and Texas law without bankruptcy court jurisdiction.

The Code defines numerous default categories of property that debtors may exempt under federal law. 11 U.S.C. 522(d)(1)-(12). But a State may define its system of exemptions as a matter of state law, which may then apply in bankruptcy. 11 U.S.C. § 522(b)(2) and (3). A debtor domiciled in a State that has opted out of the State exemptions may 13 and Chapter 7, a debtor may exempt certain property types from the estate. "An exemption is an interest withdrawn from the estate (and hence from the creditors) for the debtor's benefit." Owen v. Owen, 500 U.S. 305, 307-308, 111 S.Ct. 1833, 1835, 114 L. Ed. 2d 350 (1991).

Texas Property Code Ann. § 41.001 - providing homestead exemption under Texas law that is unlimited in amount.

11 U.S.C. § 522 of the Bankruptcy Code allows debtors to exempt certain property - such as the debtors' homestead - from distribution in the bankruptcy estate. Section 522 expressly states that exempted property may not be used to satisfy "any debt" or administrative expense." 11 U.S.C. § 522(c) and (k). Section 522 further enumerates in exhaustive detail certain exceptions to the debtors' rights to exempt property. See, eg. id. § 522(c)(1)-(4), (k)(1-2), (o)(1)-(4), and (p)(1)(A)-(D).

In the case, Judge Ronald B. King, of the Bankruptcy Court for the Western District of Texas signed and filed a final exemption order denying the trustee's objection to the Debtors' exemption and granting full exemption to the Petitioner

in this case on March 7, 2019, the trustee never appealed the final order, In re Brayshaw, 912 F.2d 1255 (10th Cir. 1990) exempting all the Petitioner homestead, as defined under 28 U.S.C. § 158(a)(1) and the Federal Rule Bankruptcy Procedure 8002(a)(1) within 14 days to the trustee or Stewart Title to file a notice of appeal to the United States District Court for the Western District of Texas, Tennial v. REI Nation, LLC (In re Tennial) 978 F.3d 1022 (6th Cir. 2020)(the appeal deadline is mandatory) and since the trustee do not appeal the final order exemption the Petitioner homestead the bankruptcy was without jurisdiction to grant the trustee or Stewart Title to file an extension of time or objection after the expiration of the 30 days prescribed by Bankruptcy Rule 4003, Matter of Stoulig, 45 F.3d 957 (5th Cir. 1995).

The Code defines numerous default categories of property that debtors may exempt under federal law. 11 U.S.C. 522(d)(1)-(12). But a State may define its system of exemptions as a matter of state law, which may then apply in bankruptcy. 11 U.S.C. 522(b)(2) and (3). A debtor domiciled in a State that has opted out of the State exemptions may days prescribed by Bankruptcy Rule 4003, Matter of Stoulig, 45 F.3d 957 (5th Cir. 1995).

Stewart Title and the Trustee did not hold the title of exempted real property 11 U.S.C. § 522(l) and therefore lacked standing to file a deed on the Deed Record of the Medina County Clerk in Texas and that made the deed issued by Stewart Title as fraudulent and *void ab initio*.

Stewart Title is bound by 11 U.S.C. § 522(c); Thus, § 522(k) “essentially immunizes” exempt property against any liability John Patrick Lowe v. Reed, 184 B.R. 733 (Bankr. W.D. Tex. 1995)(providing under § 522(c) the provision “immunizes” exempt property against any liability anywhere in the world, Owen v. Owen, 500 U.S. 305, 307-308, 111 S.Ct. 1833, 1835, 114 L. Ed. 2d 350

(1991). The immunization continues even after the bankruptcy case is closed and such property is forever protected since it was essentially removed from the bankruptcy process.

11 U.S.C. § 522(l), the property exempted under § 522 ceases to be the property of the estate and “reverts to the debtor and stands as if no bankruptcy petition was filed.” Stewart Title is barred by the exemption order signed on March 7, 2019. Stewart Title defenses under Texas Rule Civil Procedure 91(a) end on March 2, 2019, Matter of Stoulig, 45 F.3d 957 (5th Cir. 1995).

Accordingly, the U.S. Congress has specified that exempt property may not be used to satisfy the claims of creditors except in a narrow set of enumerated circumstances 11 U.S.C. § 522(c), (k), and (l), Petitioner was never accused of bankruptcy fraud, and the Petitioner days prescribed by Bankruptcy Rule 4003, Matter of Stoulig, 45 F.3d 957 (5th Cir. 1995).

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Accordingly, the U.S. Congress has specified that exempt property may not be used to satisfy the claims of creditors except in a narrow set of enumerated circumstances 11 U.S.C. § 522(c), (k), and (l), Petitioner was never accused of

bankruptcy fraud and the Petitioner has never been convicted of any crime...Petitioner is a good-standing citizen even in his actual homeless status.

The bankruptcy court relief on the purported equitable authority vested in it by 11 U.S.C. § 522(c), (k), and (l) provides that a bankruptcy court may take action "necessary or appropriate to carry out the provisions" of the Code 11 U.S.C. § 522(k). Here, the trustee's evidentiary admission violated 11 U.S.C. § 522(k), by fabricating a fraudulent deed on the Petitioner Texas exempted homestead to defeat the final bankruptcy order providing full exemption under Art. 16 § 51 of the Texas Constitution, and Texas Property Code § 41.002 to the Petitioner and his family Texas homestead for the benefit to the trustee to fraudulent and in violation of 11 U.S.C. § 522(k) to collect attorney trustee fees upon exempted property, Law v. Siegel, 571 U.S. 415, 134, S. Ct. 1188 (2014), Stewart Title raise of sanctions to doctrine this Stewart Title criminal practice for futures cases and also Stewart Title will be subject to others sanctions as well the reversal of the lower court.

A. Petitioner's Bankruptcy Filing

Petitioner Jorge Quintana, Sr and Libertad Quintana declared Bankruptcy on January 3, 2019. Due to the Petitioner's diagnosed with stage 4 metastasis cancer and was treated at the Star Center of Oncology and Hematology in San Antonio, Texas.

B. Stewart Title And The Trustee's Violation To 11 U.S.C. § 522(k)

An unopposed homestead exemption claim is analogous to a judgment. In the absence of an order granting an extension of time, once the period to object to a claimed exemption expires, a

party-in-interest is time-barred from challenging the validity of the exemption claim. The property claimed as exempt is exempt, Smith v. Kennedy (In re Smith), 235 F.3d 472, 475 (9th Cir. 2000). “[D]eadlines may lead to unwelcome results, but they prompt parties to act and they produce finality,” Smith, 235 F.3d at 476 (quoting Taylor v. Freeland & Kronz, 503 U.S. 638, 644, 112 S.Ct. 1644, 118 L.Ed.2d 280 (1992)). Like an unstayed judgment, an unopposed or unappealed homestead exemption claim stands final, In re Brayshaw, 912 F.2d 1255, 1256 (10th Cir. 1990).

Here, Stewart Title and the Trustee did not challenge the validity of the debtors’ claimed homestead exemption before March 2, 2019, the prescribed period. Thus, the debtors’ right to homestead exemption became final - Texas Property Code Ann. § 41.001 - providing homestead exemption under Texas law that is unlimited in amount; Petitioner claimed as exempt is exempt, Taylor, 503 U.S. at 643-44.

In Taylor v. Freeland & Kronz, the U.S. Supreme Court held that under 11 U.S.C. § 522(l) and Federal Rule of the Bankruptcy Proc. 4003(b), a party in interest cannot “contest the validity of “an exemption after the 30 days.” even if “the debtor had no colorable basis for claiming the exemption” the last date to object to the Petitioner exemption was March 2, 2019, and was mandatory upon the terms of Taylor, at U.S. 644, 112 S.Ct 1644, and that barred the Respondents’ in this

Texas Supreme Court Certiorari, the Respondents’ cannot ‘obstruct the basis objectives of federal bankruptcy law’. Respondents are not even parties of bankruptcy interest; they are only minions who assist the trustee in violating 11 U.S.C. § 522(c), (k), and (l) and help the trustee to commit crimes in the State of Texas.

C. The Surcharge Is Directly Contrary To Section 522’s Provisions Protecting Exempt Property

“[F]or more than two centuries,” U.S. Congress has permitted debtors to exempt certain property from being paid out to creditors.

Similarly, Texas homestead protection is Texan Constitutional Rights, Stephen F. Austin recommended a moratorium on the collection of the colonists' foreign debts. In response to that recommendation, the legislature of Coahuila and Texas enacted Decree No. 70 of 1829 to exempt from creditors' claims lands received from the sovereign as well as certain movable property. Although that act was repealed in 1831, the principle remained alive in Texans' minds and was a model for the Texas Act of 1839, which protected the home of a family from seizure by a creditor. This was the first act of this sort, and the principle of the homestead exemption is therefore deemed Texas's particular contribution to jurisprudence. The homestead principle was embodied in the Constitution of 1845 and all constitutions thereafter. Under the Constitution of 1876, the homestead was defined as the family home on up to 200 acres of rural land or urban land. Woodward v. Sanger Bros., 246 F. 777, 780 (5th Cir. 1917) cert. Denied, 246 U.S. 674, 38 S. Ct. 425, 62 L. Ed. 932 (1918)(This court asserted that "[a] fundamental ideal involved [in the homestead laws] is a place of residence."). The homestead laws not only have beneficent purposes but they also are designed to support the public in preventing homelessness.

11 U.S.C. § 522(b)(1). One of "the most venerable, most common, and most important exemptions" is the homestead exemption, which ensures that the debtor leaves bankruptcy either with his home or with sufficient proceeds from the sale of his home to obtain another home, Owen v. Owen, 500 U.S. 305, 307-308, 111 S.Ct. 1833, 1835, 114 L. Ed. 2d 350 (1991).

**D. Respondents' Evidentiary Admission That The
Petitioner Does Not Receive Notice And Copy
Of The Respondents Tex. R. Civ. Proc. 91a
Motion**

Rule 91a of the Texas Rules of Civil Procedure allows a party to seek dismissal of a groundless cause of action, Tex. R. Civ. P. 91a.

Timing is important. The motion must be filed within 60 days after the first pleading containing the challenged cause of action is served. Tex. R. Civ. P. 91a.3(a).

Twenty-one days' notice is required before a hearing. Tex. R. Civ. P. 91a.3(b). A court may not rule on a motion to dismiss under Tex. R. Civ. P. 91a if an opposition to the challenged cause of action files a nonsuit at least three days before the hearing. Tex. R. Civ. P. 91a.5(a).

Is the lower court granting the Tex. R. Civ. P. 91a motion an immediate appeal from the order may materially advance the ultimate termination of the litigation, City of Austin v. Liberty Mut. Ins., 431 S.W.3d 817 (Tex. App. 2014).

Respondents do not dispute that Friday, June 2, 2023, filed a frivolous Tex. R. Civ. P. 91a motion, without notice in which the lower court judge Daniel J. Kindred, knowingly that the Petitioner has not been noticed and served with the Respondents Tex. R. Civ. P. 91a motion granted the Respondents motion on Monday, June 5, 2023.

Mrs. Holzhaus, in her capacity as an escrow agent, a title insurance company may also "close" the business transaction with the Trustee in violation of 11 U.S.C. § 522(c) and (k) of the Bankruptcy Code. A title company is liable for its negligence in closing a real estate transaction, Zimmerman v. First Am Title Ins. Co., 790 S.W. 2d 690, 694 (Tex. App. -Tyler 1990, writ denied)

Respondents and the Trustee, both individually and together, represent a significant deterrent to dishonest conduct. More importantly, they together violate 11 U.S.C. § 522(c) and (k) that the U.S. Congress chose to rely upon in lieu of depriving debtors of their homestead, and other exempt property, Law v. Siegel, 571 U.S. 415, 134, S. Ct. 1188 (2014).

REASON FOR GRANTING THE WRIT

The reason for granting this Writ was that it wanted to address the legal question of whether an unserved motion of Texas Rule 91a could change the inherent powers of 11 U.S.C. § 522(k) to surcharge an exempt debtor homestead exemption, which is protected under State and Federal laws during the bankruptcy proceedings, essentially determining the debtors' homestead rights, in which the United States Supreme Court protecting debtors rights to exemption and the court's authority to ensure the integrity of the bankruptcy process, holding that the bankruptcy court exceeded its authority by surcharging his entire homestead exemption that should be interpreted strictly and cannot be overridden by a court's general equitable powers. The granting is mandated under Law v. Siegel, 571 U.S. 415, 134, S. Ct. 1188 (2014).

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Decided: April 3, 2024

Appendix B

Decision of the 454th Judicial District Medina Court County Texas
Trial Court No. 23-0528425-CV
Honorable Daniel J. Kindred
Decided: June 5, 2023

Appendix C

Decision of the Texas Supreme Court
Case No. 24-0415
Decided: July 26, 2024

Appendix D

Decision of the Texas Supreme Court - Rehearing

Case No. 24-0415

Decided: September 13, 2024

Appendix E

Bankruptcy Mandate (Never Appealed)

Bankr. Case No. 19-50029 - RBK

United States Bankruptcy Court For the Western District of Texas

Decided: March 7, 2019

OPINIONS BELOW

On June 5, 2023, without the petitioner receiving a copy of the respondent's motion to dismiss Judge Daniel J. Kindred of the Medina County District Court of Texas in violation of due process granting unserved respondents Texas Rule 91a motion to dismiss, a notice of appeal was filed on June 16, 2023, with the Fourth Court of Appeal Texas Judicial and the brief was denied, on June 18, 2024, the Texas Supreme Court denied the Petitioner's brief without opinion because the Petitioner requested enforcement of the Texas Constitution Article 16 Section 50 establishes and guarantees the right of the homestead and prescribes the nature and extent of the homestead exemption and the statutory Section 41.002 was enacted by the Texas legislature which statutorily sets out the homestead exemption and is enforced even if fraud has been committed and both state and federal courts by the trustee violation to 11 U.S.C. § 522(k)...Law v. Siegel, 134 S. Ct. 1188 (2014). More broadly, the Court held that federal law "provides no authority for bankruptcy courts to deny an exemption on a ground not specified in the Code." They also paid a title company without bankruptcy jurisdiction (Matter of Stoulig, 45 F.3d 957 (5th Cir. 1995)) to sell the homestead of the Debtors'.

THE BANKRUPTCY CASE

The bankruptcy case from the Western District of Texas - San Antonio - Case No. 19-50029-RBK...the trustee never appealed the bankruptcy order denying the trustee objection to the exemption dated and filed on March 7, 2019, the trustee John Patrick Lowe admitted committing the Federal crime 18 U.S.C. § 155 by knowingly and fraudulently agrees with a creditor and its attorney to sell the debtors homestead without bankruptcy jurisdiction (Matter of Stoulig, 45 F.3d 957 (5th Cir. 1995)) to collect administrative and trustees attorney fees after the bankruptcy court denied the trustee objection in violation to 11 U.S.C. § 522(k)...Law v. Siegel, 134 S. Ct. 1188 (2014) and illegally stole all the state law exemptions allowed under the Texas Constitution Article 16 Section 50 establishes and guarantees the right of the homestead and prescribes the nature and extent of the homestead exemption and statutory Section 41.002 were enacted by the Texas legislature. Section 41.002 statutorily sets out the homestead exemption, which is enforced even if fraud has been committed, in both state and federal courts.

CONCLUSION

For the reasons stated above and for the reason set forth by this United States Supreme Court in Law v. Siegel, 571 U.S. 415, 134, S. Ct. 1188 (2014), the decision of the Texas Supreme Court should be reversed.

Respectfully submitted:

By: 

/s/ Jorge L. Quintana, Sr.

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