No. 25-6795

IN THE

SUPREME COURT OF THE UNITED STATES

NORMAN LEE SCOTT, SR.,
Petitioner,

v.

THE CHILDREN'S HOSPITAL OF PHILADELPHIA AND WHITNEY R. BAILEY

Respondents.

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

REPLY TO BRIEF IN OPPOSITION

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INTRODUCTION

Respondents' Brief in Opposition confirms that this case warrants this Court's review. Indeed, Respondents sought an extension of time to respond because this Court's recent decision in *Keathley v. Buddy Ayers Construction, Inc.* bears "meaningfully on the issues" presented here. Having acknowledged the significance of *Keathley*, Respondents nevertheless mischaracterize both the question presented and the procedural posture of this case.

Respondents frame this case as another routine bankruptcy nondisclosure case in which judicial estoppel was properly imposed because Petitioner failed initially to disclose pending litigation in his Chapter 7 bankruptcy schedules.

That is not the question presented.

Nor is this simply another case involving the same facts as *Scott v. Children's Hospital of Philadelphia* ("*Scott I*").

Instead, this Petition presents an important question concerning the interaction between the Bankruptcy Code and the equitable doctrine of judicial estoppel after a bankruptcy court has exercised its statutory authority to correct an omission.

Unlike the ordinary judicial-estoppel case, the Bankruptcy Court here reopened Petitioner's Chapter 7 case pursuant to 11 U.S.C. § 350(b), accepted amended schedules disclosing the pending litigation, reappointed the Chapter 7 Trustee, administered the estate, and ultimately entered a Final Decree closing the bankruptcy proceedings.

The district court initially denied Respondents' request to dismiss this separate defamation action on judicial-estoppel grounds considering those bankruptcy proceedings.

Only months later, after the Third Circuit decided *Scott I*, did the district court reconsider Sua sponte and reverse its own prior ruling, concluding that dismissal was required because of "the importance of consistent application of the law."

The question presented is therefore not whether Petitioner's original omission justified judicial estoppel.

The question presented is whether a district court may revisit and reverse its own earlier determination in a separate civil action after the Bankruptcy Court has completed its corrective proceedings, based principally on an intervening appellate decision involving different claims arising from the same bankruptcy.

Neither Respondents nor the decisions below answer that question.

Accordingly, this Court should grant the Petition.

I. RESPONDENTS MISSTATE THE QUESTION PRESENTED

Respondents devote most of their Brief in Opposition to defending the lower courts' conclusion that Petitioner's initial failure to disclose this action in his bankruptcy schedules supported an inference of bad faith.

That argument does not answer the question presented.

Petitioner does not contend that judicial estoppel may never apply following an omission in bankruptcy.

Nor does Petitioner argue that reopening a bankruptcy case automatically defeats judicial estoppel.

Those are not the issues before this Court.

Instead, this case presents a different and narrower question.

After the Bankruptcy Court exercised its statutory authority under 11 U.S.C. § 350(b), reopened the bankruptcy case, accepted amended schedules identifying Petitioner's civil claims, reappointed the Chapter 7 Trustee, administered the estate, and entered a Final Decree, what legal significance should those completed judicial proceedings have when another federal court later applies the equitable doctrine of judicial estoppel?

Respondents never answer that question.

Instead, they repeatedly return to Petitioner's original omission while largely disregarding everything that followed.

That approach reduces the equitable analysis to a single historical event.

Judicial estoppel, however, is not concerned only with how litigation begins.

It requires courts to consider the circumstances existing when the doctrine is invoked.

The Bankruptcy Court's completed corrective proceedings are therefore not collateral events.

They are part of the very circumstances that inform whether application of judicial estoppel remains equitable.

Respondents' failure to address those proceedings confirms that this Petition presents an important question warranting this Court's review.

II. THIS CASE IS PROCEDURALLY DISTINCT FROM *SCOTT I*

Respondents repeatedly assert that this case presents "the same circumstances" as *Scott I* because both actions arose from Petitioner's failure to disclose pending litigation in his Chapter 7 bankruptcy schedules. That characterization oversimplifies the procedural history and overlooks the question presented by this Petition.

The issue is not whether the two cases share a common bankruptcy proceeding. They do.

The issue is whether they share the same procedural posture. They do not.

This case followed a materially different course.

When Respondents first moved to dismiss this defamation action on judicial-estoppel grounds, the district court considered the relevant facts and declined to apply the doctrine. The court recognized that the Bankruptcy Court had reopened Petitioner's Chapter 7 case, permitted amended schedules disclosing the pending litigation, and restored the bankruptcy process so that the omitted asset could be administered. Based on those circumstances, the district court denied dismissal on judicial-estoppel grounds and allowed the litigation to proceed.

That ruling became the law governing this case.

Following that decision, Petitioner continued participating in the reopened bankruptcy proceedings. The Bankruptcy Court accepted the amended schedules, the Chapter 7 Trustee administered the estate, and the bankruptcy case proceeded to completion. Those proceedings were completed under the supervision of the Bankruptcy Court before the district court later revisited its prior ruling.

Only after the Third Circuit issued its decision in *Scott I* did the district court, on its own initiative, reconsider its earlier ruling and dismiss this separate action pursuant to judicial estoppel.

Thus, the district court did not dismiss this case when judicial estoppel was first raised. It dismissed only after an intervening appellate decision involving different causes of action arising from the same bankruptcy proceeding.

That chronology matters.

The question presented is not whether *Scott I* correctly resolved the employment-discrimination cases before it. Nor does Petitioner ask this Court to review the merits of that decision.

Rather, this Petition asks whether *Scott I* automatically controlled the outcome of this separate defamation action after the Bankruptcy Court had completed the corrective process authorized by Congress and after the district court had already determined that judicial estoppel was not warranted.

Neither the district court nor the Third Circuit identified any new omission, any new inconsistent position, or any additional conduct by Petitioner that altered the factual record after the district court's original ruling. The principal intervening event was the issuance of *Scott I.*

Respondents therefore seek to treat *Scott I* not merely as persuasive authority, but as dispositive of every civil action arising from the same bankruptcy case regardless of the different procedural posture of each action.

That approach presents an important federal question.

Judicial estoppel is an equitable doctrine requiring a case-specific analysis. It is not ordinarily applied through categorical rules that eliminate consideration of subsequent developments unique to a particular case.

Here, significant events occurred after the district court's initial ruling: the Bankruptcy Court completed the statutory corrective process established by 11 U.S.C. § 350(b), the Trustee administered the estate, and the bankruptcy case was concluded. Those events are part of the equitable landscape that existed when the district court ultimately invoked judicial estoppel.

Respondents do not explain why those completed proceedings should carry no meaningful weight in this separate action. Instead, they rely almost exclusively on *Scott I* to argue that the matter was already resolved.

That is precisely why this Court's review is warranted. The Petition presents an opportunity to clarify whether an intervening appellate decision involving related litigation relieves a court of its obligation to conduct an independent equitable analysis based on the procedural posture and record before it.

III. THE DISTRICT COURT'S SUA SPONTE REVERSAL AFTER THE BANKRUPTCY COURT COMPLETED ITS CORRECTIVE PROCEEDINGS PRESENTS AN IMPORTANT FEDERAL QUESTION

Respondents portray this case as presenting nothing more than the routine application of judicial estoppel. The procedural history demonstrates otherwise.

When Respondents first moved to dismiss Petitioner's defamation action, the district court considered the request and declined to dismiss the action on judicial-estoppel grounds. The court expressly recognized that the Bankruptcy Court had reopened Petitioner's Chapter 7 case, permitted amended schedules identifying the pending litigation, and directed the appointment of a Chapter 7 Trustee. In light of those developments, the district court allowed the case to proceed rather than dismiss it on judicial-estoppel grounds.

The procedural posture then changed.

While the reopened bankruptcy case continued, the Bankruptcy Court carried out the corrective process authorized by Congress. The Trustee administered the estate, and the bankruptcy proceedings moved toward completion under the supervision of the Bankruptcy Court.

Only after those events, and only after the Third Circuit issued its decision in *Scott I*, did the district court revisit its earlier ruling. The court explained that it was reconsidering its prior decision because of the Third Circuit's ruling and "the importance of consistent application of the law." It then dismissed this separate defamation action on judicial-estoppel grounds.

That chronology presents the question warranting this Court's review.

Petitioner does not dispute that a district court possesses authority to reconsider an interlocutory ruling in appropriate circumstances. The question is different.

When a bankruptcy court has already exercised its statutory authority under 11 U.S.C. § 350(b), accepted amended schedules, reappointed a trustee, administered the estate, and completed the bankruptcy proceedings, what legal significance should those completed proceedings have when a district court later reconsiders whether to invoke the equitable doctrine of judicial estoppel?

Neither the district court nor the Third Circuit answered that question.

Instead, the district court relied upon the intervening decision in *Scott I* without explaining how the completed bankruptcy proceedings affected the equitable analysis in this separate action. The Third Circuit, in turn, concluded that this case presented "the same circumstances" as *Scott I* because both cases arose from the same bankruptcy schedules.

But the relevant inquiry is not simply whether the cases shared the same bankruptcy.

The relevant inquiry is whether they shared the same procedural posture at the time judicial estoppel was ultimately imposed.

They did not.

By the time this case was dismissed, the Bankruptcy Court had already exercised its statutory authority to reopen the case, administer the omitted asset, and complete the bankruptcy proceedings. Those events were part of the factual and equitable landscape before the district court entered its final judgment.

Whether those completed proceedings must receive meaningful consideration before judicial estoppel is imposed is an important question of federal law that neither *Scott I* nor the decisions below resolve.

Because the district court's reconsideration occurred only after the Bankruptcy Court completed its corrective process and only after an intervening appellate decision involving different claims, this case presents an unusually clear vehicle for resolving that question.

IV. KEATHLEY REAFFIRMS THAT JUDICIAL ESTOPPEL IS AN EQUITABLE DOCTRINE REQUIRING A CASE-SPECIFIC ANALYSIS

Respondents contend that this Court's recent decision in *Keathley v. Buddy Ayers Construction, Inc.* supports the judgment below. Respectfully, Respondents read *Keathley* too broadly.

Petitioner does not dispute that judicial estoppel remains available in appropriate cases involving inconsistent positions taken during bankruptcy proceedings.

Nor does Petitioner contend that reopening a bankruptcy case automatically defeats judicial estoppel.

Rather, *Keathley* reinforces a more fundamental principle: judicial estoppel is an equitable doctrine that requires courts to evaluate the particular circumstances before imposing the extraordinary sanction of dismissal.

That principle supports review here.

The courts below focused primarily on Petitioner's original omission from his bankruptcy schedules. They concluded that reopening the bankruptcy case was insufficient, standing alone, to overcome an inference of bad faith.

But that is not the question presented.

Petitioner does not argue that reopening alone resolved the issue.

Instead, Petitioner asks what significance federal courts should give to the Bankruptcy Court's completed corrective proceedings—including reopening under 11 U.S.C. § 350(b), acceptance of amended schedules, reappointment of the Chapter 7 Trustee, administration of the estate, and completion of the bankruptcy case—when deciding whether judicial estoppel remains an appropriate equitable remedy.

Neither the district court nor the Third Circuit analyzed those completed proceedings as part of an independent equitable determination in this separate action.

Instead, after *Scott I* was decided, the district court concluded that dismissal was warranted because the Third Circuit had already determined dismissal to be an appropriate sanction in the employment-discrimination litigation and because of "the importance of consistent application of the law."

That approach effectively treated *Scott I* as resolving the equitable inquiry in this separate action without explaining what legal significance should be afforded to the Bankruptcy Court's completed corrective proceedings.

Keathley does not eliminate the need for that analysis.

To the contrary, because judicial estoppel is equitable, its application necessarily depends upon the circumstances existing when the doctrine is invoked.

Here, those circumstances included completed proceedings before another federal court exercising authority expressly granted by Congress.

The Bankruptcy Court did not merely authorize amendment of Petitioner's schedules.

It reopened the bankruptcy case.

It accepted the amended disclosures.

It restored the Trustee's authority to administer the estate.

It concluded those proceedings by entering a Final Decree.

Those events formed part of the procedural and equitable landscape before the district court entered its final judgment.

Respondents' Brief offers no principled explanation why those completed proceedings should receive little or no meaningful consideration.

That unanswered question distinguishes this case from the authorities on which Respondents rely and demonstrates why this Court's guidance is needed.

This Court should therefore grant the Petition to clarify how the equitable principles reaffirmed in *Keathley* apply where a bankruptcy court has completed the corrective process authorized by Congress before judicial estoppel is ultimately imposed in a separate civil action.

V. THIS CASE PRESENTS AN IMPORTANT AND RECURRING QUESTION OF FEDERAL LAW

Respondents contend that this case involves nothing more than the application of settled law to Petitioner's particular facts. Respectfully, that characterization overlooks the broader question presented.

This case concerns the relationship between two bodies of federal law.

On one hand, Congress expressly authorized bankruptcy courts to reopen closed cases under 11 U.S.C. § 350(b) so that omitted assets may be disclosed, trustees may administer those assets, and creditors may receive any recovery to which they are entitled.

On the other hand, judicial estoppel is a federal equitable doctrine designed to protect the integrity of judicial proceedings.

The question presented is how those two principles operate together when both have been fully invoked.

Here, the Bankruptcy Court exercised its statutory authority by reopening Petitioner's Chapter 7 case, accepting amended schedules, appointing a Chapter 7 Trustee, and permitting the bankruptcy process to proceed. Only after those proceedings had occurred did the district court reconsider its earlier ruling and dismiss Petitioner's separate civil action.

Respondents argue that the completed bankruptcy proceedings have little practical significance because Petitioner's original omission supported an inference of bad faith.

That argument leaves an important question unanswered.

If the Bankruptcy Court's completed corrective proceedings do not materially affect the equitable analysis, what legal significance do those proceedings have when judicial estoppel is later invoked?

Neither the decision below nor Respondents' Brief provides an answer.

Instead, Respondents assume that the original omission remains dispositive regardless of everything that subsequently occurred before the Bankruptcy Court.

This Court's review is warranted because that question extends well beyond Petitioner's individual case.

Bankruptcy courts throughout the Nation routinely reopen closed cases under § 350(b).

Federal district courts routinely consider judicial-estoppel arguments involving debtors who have corrected earlier omissions through those statutory procedures.

Yet the decisions below provide no guidance concerning the legal significance of those completed corrective proceedings once judicial estoppel is asserted.

Clarification from this Court would provide important guidance to bankruptcy courts, district courts, trustees, creditors, and litigants concerning the proper interaction between Congress's statutory reopening procedures and the equitable doctrine of judicial estoppel.

For these reasons, this case presents an important and recurring question of federal law warranting this Court's review.

VI. THIS CASE IS AN EXCELLENT VEHICLE FOR RESOLVING THE QUESTION PRESENTED

This case presents the question in a clean and fully developed procedural posture.

The relevant facts are not materially disputed.

Petitioner filed this defamation action before seeking bankruptcy relief.

While the action remained pending, Petitioner filed a Chapter 7 bankruptcy petition but failed to disclose the lawsuit in his original schedules.

After Respondents raised judicial estoppel, Petitioner moved to reopen the bankruptcy proceedings pursuant to 11 U.S.C. § 350(b). The Bankruptcy Court granted that motion, permitted amended schedules identifying the pending litigation, and directed the appointment of a Chapter 7 Trustee.

When Respondents first sought dismissal on judicial-estoppel grounds, the district court considered those developments and declined to dismiss the action on that basis.

The case therefore continued.

Only after the Third Circuit decided *Scott I* did the district court reconsider its earlier ruling and dismiss this separate action pursuant to judicial estoppel, explaining that reconsideration was appropriate in light of *Scott I* and "the importance of consistent application of the law."

The Third Circuit affirmed, concluding that this case presented "the same circumstances" as *Scott I* because both actions arose from the same bankruptcy proceedings.

Accordingly, the issue before this Court is sharply defined.

This case does not require resolution of disputed facts.

Nor does it require the Court to determine whether Petitioner's original omission occurred.

Those facts are already established.

Instead, the Court is presented with a purely legal question concerning the interaction between the Bankruptcy Code's corrective procedures and the equitable doctrine of judicial estoppel after a bankruptcy court has completed the corrective process.

The issue is squarely presented by the decisions below.

Both courts recognized that the Bankruptcy Court had reopened Petitioner's Chapter 7 case.

Both courts recognized that amended schedules had been filed.

Yet both ultimately concluded that dismissal remained appropriate after *Scott I*.

Whether that approach is consistent with the equitable principles reaffirmed in *Keathley* is a question of federal law that is fully preserved and ready for this Court's review.

No further factual development is necessary.

No jurisdictional obstacle prevents review.

The legal issue has been fully litigated in the district court and the court of appeals.

Accordingly, this case presents an excellent vehicle through which this Court may clarify the proper relationship between Congress's statutory reopening procedures under 11 U.S.C. § 350(b) and the equitable doctrine of judicial estoppel.

CONCLUSION

Respondents portray this case as presenting nothing more than the routine application of judicial estoppel to Petitioner's failure to disclose pending litigation in his Chapter 7 bankruptcy schedules.

Respectfully, that characterization misses the question presented.

This Petition does not ask whether an initial omission may support judicial estoppel.

Nor does Petitioner contend that reopening a bankruptcy case automatically defeats the doctrine.

Instead, this case presents a narrower and more important question.

After a bankruptcy court exercises its statutory authority under 11 U.S.C. § 350(b), reopens the bankruptcy case, accepts amended schedules, appoints a Chapter 7 Trustee, administers the estate, and concludes the corrective proceedings, what legal significance should those completed proceedings have when another federal court later considers whether to invoke the equitable doctrine of judicial estoppel?

The decisions below do not answer that question.

The district court initially declined to dismiss Petitioner's defamation action based on judicial estoppel after recognizing the Bankruptcy Court's reopening of the case. Only after the Third Circuit decided *Scott I* did the district court reconsider its earlier ruling and dismiss this separate action. The Third Circuit affirmed, concluding that the two cases presented "the same circumstances" because they arose from the same bankruptcy proceedings.

Whether that approach is consistent with the equitable principles governing judicial estoppel—and with Congress's statutory framework for reopening bankruptcy cases—is an important question of federal law.

Respondents themselves recognized the significance of that issue by requesting additional time to respond after this Court decided *Keathley*. That acknowledgment confirms that the relationship between *Keathley*, judicial estoppel, and completed bankruptcy proceedings is an issue worthy of this Court's attention.

This case presents that issue in a clean procedural posture.

The relevant chronology is established by the record.

The issue was fully litigated in the district court and the court of appeals.

No additional factual development is required.

Accordingly, this case provides an appropriate vehicle for this Court to clarify how the equitable doctrine of judicial estoppel should operate when a bankruptcy court has completed the corrective process authorized by Congress before a separate civil action is dismissed.

For the foregoing reasons, the Petition for a Write of Certiorari should be granted.

Respectfully submitted,

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