

18-489 TAGGART V. LORENZEN

DECISION BELOW: 888 F.3d 438

LOWER COURT CASE NUMBER: 16-35402, 16-60032, 16-60033, 16-60039, 16-60040, 16-60042, 16-60043

QUESTION PRESENTED:

This case presents a clear and intractable conflict regarding an important question of federal bankruptcy law.

According to the Ninth Circuit, a "creditor's good faith belief that the [Bankruptcy Code's] discharge injunction does not apply * * * precludes a finding of contempt," even if the creditor acted "unreasonabl[y]" in violating a debtor's rights. That holding directly conflicts with the decisions of three courts of appeals, two bankruptcy appellate panels, and dozens of lower courts. Contrary to the Ninth Circuit, these other courts hold that the Code authorizes relief for discharge violations, irrespective of a creditor's good faith: "the focus of the court's inquiry in civil contempt proceedings is not on the subjective beliefs or intent of the alleged contemnors in complying with the order, but whether in fact their conduct complied with the order at issue."

This "ineluctabl[e]" conflict was recognized by the panel, and it has since been acknowledged by multiple judges and expert commentators. The question presented was the sole basis for the decision below, and the relevant facts are clean and undisputed. Its correct disposition is vital to the proper administration of the Code, and this case is the ideal vehicle for resolving the entrenched conflict.

The question presented is:

Whether, under the Bankruptcy Code, a creditor's good-faith belief that the discharge injunction does not apply precludes a finding of civil contempt.

CERT. GRANTED 1/4/2019