

15-145 HUSKY ELECTRONICS, INC. V. RITZ

DECISION BELOW: 787 F.3d 312

LOWER COURT CASE NUMBER: 14-20526

QUESTION PRESENTED:

The Bankruptcy Code bars the discharge of "any debt ... for money ... obtained by ... [1] false pretenses, [2] a false representation, or [3] actual fraud." 11 U.S.C. § 523(a)(2)(A). The First and Seventh Circuits have held that the "actual fraud" bar applies where an individual debtor deliberately obtains money through a fraudulent-transfer scheme that is actually intended to cheat a creditor. But in an acknowledged circuit split, the Fifth Circuit held as a matter of law that there can be no "actual fraud" unless the debtor makes a false representation to the creditor. This decision creates a roadmap for dishonest debtors to cheat creditors through deliberate fraudulent-transfer schemes, and then to escape liability through discharge in bankruptcy. The question presented is:

Whether the "actual fraud" bar to discharge under Section 523(a)(2)(A) of the Bankruptcy Code applies only when the debtor has made a false representation, or whether the bar also applies when the debtor has deliberately obtained money through a fraudulent-transfer scheme that was actually intended to cheat a creditor.

CERT. GRANTED 11/6/2015