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Summary of In re Fox, 129 Nev. Adv. Op. 39

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MISCELLANEOUS – BANKRUPTCY

Summary

The Court considered whether a judgment debtor may claim exemptions under NRS 21.090(f) and (z) for not just herself, but also her non-debtor spouse. In this case, only two exemptions were at issue, one for motor vehicles² and another for up to \$1,000 of property³.

Disposition/Outcome

Relying on the plain language of the statutes, the Court held that a judgment debtor may claim exemptions under NRS 21.090(f) and (z) for herself, but cannot claim these exemptions on behalf of her non-debtor spouse.

Facts and Procedural History

Fox filed a petition for relief under Chapter 7 of the United States Bankruptcy Code. Fox claimed an exemption for two motor vehicles under NRS § 21.090(1)(f) and property worth over \$1,400 under NRS § 21.090(1)(z). The Chapter 7 trustee objected to these exemptions on the grounds that Fox had exceeded the exemptions provided under these two statutes. Fox argued that her exemptions did not violate the statutes because she was allowed to claim one for herself and another for her non-debtor spouse. The United States Bankruptcy Court for the District of Nevada held for Fox, finding that Nevada law allowed Fox to essentially double her exemptions on behalf of her spouse. The Trustee appealed to the United States Bankruptcy Appellate Panel of the Ninth Circuit. That Court stayed the proceeding and certified the question to the Nevada Supreme Court to definitively decide whether or not the exemptions could be applied to non-debtor spouses.

Discussion

Justice Cherry wrote for a unanimous court.

Before deciding the question of Nevada's exemptions, the Court turned to a decision by the US Bankruptcy Court for the District of Idaho which dealt with an identical question under Idaho law. In *Dehann*, the Idaho court concluded that the Idaho exemption scheme did not allow a debtor to claim a second set of personal property exemptions on behalf of a non-filing spouse.⁴

The Nevada Supreme Court then examined the plain language of the statute. The Court found that the statutes at issue here made no mention of a non-debtor spouse, thus a debtor may not claim exemptions on behalf of a non-debtor spouse.

¹ By Dan Nubel.

² NEV. REV. STAT. § 21.090(1)(f) (2011).

³ NEV. REV. STAT. § 21.090(1)(z) (2011).

⁴ *In re DeHaan*, 275 B.R. 375 (Bankr. D. Idaho 2002).

Conclusion

Given the plain language of the statutes involved here, the Court held that under NRS 21.090(f) and (z), a judgment debtor may claim exemptions for a single vehicle and up to \$1,000 in personal property for herself. The debtor is not, however, permitted to claim these exemptions on behalf of a non-debtor spouse.