

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Browning v. Navarro

826 F.2d 335 (5th Cir. 1987) · No. No. 86-1444 · Decided September 24, 1987

SUMMARY

The Fifth Circuit held that a state-court judgment could be enforced in bankruptcy court, rejecting challenges based on the supremacy clause, full faith and credit, res judicata, and alleged violations of a bankruptcy court remand order. The court concluded that the bankruptcy court could consider whether the judgment had been procured by fraud, including a corrupt abuse of the judicial process. It remanded for consideration of that fraud claim while rejecting the other asserted defenses.

CASE DETAILS

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| COURT                 | United States Court of Appeals for the Fifth Circuit                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| WRITING FOR THE COURT | E. Grady Jolly; Politz; Jolly; Higginbotham                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | Federal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DECIDED               | September 24, 1987                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| DOCKET                | No. 86-1444                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | The Brownings sought declaratory and injunctive relief in federal district court to enforce a Texas state-court judgment imposing a constructive trust and awarding damages against assets involved in bankruptcy proceedings. The district court denied Holloway's motion for summary judgment challenging enforcement and had previously rejected his arguments concerning the bankruptcy remand order, supremacy clause, and appellate enforcement. Holloway appealed, and the Brownings cross-appealed issues concerning the bankruptcy trustee. |
| STANDARD OF REVIEW    | The court reviewed the district court's legal conclusions concerning the enforceability of the state-court judgment and the permissible defenses in bankruptcy. The fraud allegations were to be considered in light of Holloway's pleadings, affidavits, and summary-judgment materials, with factual determinations left to the district court on remand.                                                                                                                                                                                          |
| PRECEDENTIAL VALUE    | Published federal circuit opinion; precedential                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

## PARTIES

Jane H. Browning, individually and as co-independent executrix of the estate of William W. Browning, Jr., deceased, et al., Pat S. Holloway, cross-appellant v. Don Navarro, individually and as trustee for Pat S. Holloway, et al., Pat S. Holloway

## TOPICS

bankruptcy res judicata declaratory judgment injunctions appellate procedure

## PRACTICE AREAS

Bankruptcy Civil procedure Judgment enforcement Remedies Appellate procedure

## QUESTIONS PRESENTED

1. Whether the action seeking possession of property and enforcement of the Texas judgment was a true turnover action under the Bankruptcy Code or an action to enforce a judgment under the district court's general bankruptcy jurisdiction.
2. Whether the bankruptcy remand order, the supremacy clause, the full faith and credit clause, or res judicata barred enforcement of the Texas judgment because the state proceedings allegedly deviated from the bankruptcy court's order.
3. Whether a bankruptcy court may allow a collateral attack on a state-court judgment on the ground that it was procured by fraud, including corrupt abuse of the judicial process.
4. What showing is required to establish that a judgment was procured by fraud through a scheme or collusion that deprived a party of a fair and complete trial.
5. Whether the Brownings' motion for injunctive relief and their cross-appeal concerning the trustee should be considered.

## HOLDINGS

1. The Brownings' action was not a true turnover suit under 11 U.S.C. §§ 542 and 543 because they sought property from the debtor and bankruptcy trustee rather than property of the estate held by a third party. It was instead an action to enforce a judgment under the district court's general bankruptcy jurisdiction.
2. The state court judgment was not void merely because the state proceedings later involved an active state district judge, receiverships, or a supersedeas bond. Once the case had been assigned to a visiting state judge, the conditional remand became final, the bankruptcy court was divested of jurisdiction, and the state court was reinvested with jurisdiction.
3. The supremacy clause and full faith and credit clause did not bar enforcement of the state judgment because the judgment did not conflict with the bankruptcy court's remand order. Res judicata did not apply on the theory that the bankruptcy court had adjudicated the merits of the Brownings' claims, because it had not.
4. Under *Heiser v. Woodruff*, a bankruptcy court may consider a challenge to another court's judgment on the ground that the judgment is not valid for lack of jurisdiction or was procured by fraud, subject to res

judicata. Because the state court's jurisdiction had already been established, the remaining potentially cognizable defense was that the judgment was procured by fraud.

5. To establish that a judgment was procured by fraud through corrupt abuse of the judicial process, the challenger must show a scheme or collusion designed to corruptly influence the proceedings or inhibit the adverse party's ability to present the case or defense, with the effect of foreclosing a fair and complete trial. The court must be convinced that the scheme rendered the trial so fundamentally unfair that the judgment cannot confidently be regarded as soundly based on law and fact.
6. Holloway's pleadings, affidavits, and briefs alleged facts that, if proved, could satisfy the fraud-in-procurement standard, including collusion between the Brownings' attorneys and the state trial judge to deny Holloway a fair and impartial trial.
7. The district court must permit the Brownings to amend their pleadings and respond to Holloway's fraud allegations and affidavits, then determine whether res judicata bars the fraud defense and, if not, whether and to what extent the state judgment should be enforced.

## KEY QUOTATIONS

*“Under Heiser, therefore, Holloway may challenge the state court judgment only with respect to jurisdiction and fraud, and then only if not barred by application of the doctrine of res judicata.”* (826 F.2d at 342)

*“To set aside the judgment, the court must be convinced that the trial was rendered so fundamentally unfair by the scheme or collusion, that the court lacks confidence that the judgment is soundly based on law and fact.”* (826 F.2d at 342)

*“We reiterate that we have considered all issues in this case and hold that the only defense that remains available to Holloway to deny enforcement of the state court judgment is whether the judgment was procured by fraud as defined within the parameters of this opinion.”* (826 F.2d at 344)

## FACTUAL BACKGROUND

The Brownings obtained a Texas judgment imposing a constructive trust on Humble Exploration Company and Pat Holloway's assets and awarding substantial actual and exemplary damages. Holloway alleged that the judgment resulted from collusion among the Brownings' attorneys and the state trial judge, including improper consolidation, private communications, interference with counsel and access to files, and other conduct that denied him a fair trial. The bankruptcy court had remanded the underlying litigation to state court after modifying the automatic stay, and the Fifth Circuit had previously held that the remand became final and that the state court retained jurisdiction.

## PROCEDURAL HISTORY

The Brownings obtained a Texas state-court judgment imposing a constructive trust and awarding \$72 million in actual damages and \$10 million in exemplary damages. After bankruptcy proceedings and related federal and state litigation, the district court ruled that the state-court trial was not void and denied Holloway's defenses to enforcement. The Fifth Circuit affirmed the rejection of all defenses except the defense that the judgment was procured by fraud through corrupt abuse of the judicial process, reversed in part, and remanded for factual and legal consideration of that defense and res judicata.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The district court must allow the Brownings to amend their pleadings and, if appropriate, submit responsive affidavits. It must determine whether Holloway has established that the state judgment was procured by fraud, whether res judicata bars that defense, and, based on those determinations, whether and to what extent the judgment may be enforced. No other theory, claim, or defense remains viable.

## CASES CITED

- *Browning v. Navarro*, 743 F.2d 1069 (5th Cir. 1984)
- *Holloway v. Walker*, 784 F.2d 1287 (5th Cir. 1986), reh'g denied, 790 F.2d 1170 (5th Cir. 1986)
- *Holloway v. Walker*, 765 F.2d 517 (5th Cir. 1985)
- *Humble Exploration Co. v. Fairway Land Co.*, 641 S.W.2d 934 (Tex. App.—Dallas 1982, writ ref'd n.r.e.), enforced, 641 S.W.2d 941 (Tex. App.—Dallas 1982, no writ)
- *Humble Exploration Co. v. Browning*, 690 S.W.2d 321 (Tex. App.—Dallas 1985) (en banc), reinstating 677 S.W.2d 111 (Tex. App.—Dallas 1984, no writ)
- *Casperone v. Landmark Oil & Gas Corp.*, 819 F.2d 112 (5th Cir. 1987)
- *Heiser v. Woodruff*, 327 U.S. 726, 66 S. Ct. 853, 90 L. Ed. 970 (1945)
- *United States v. Throckmorton*, 98 U.S. 61, 25 L. Ed. 93 (1878)
- *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 64 S. Ct. 997, 88 L. Ed. 1250 (1944)
- *Marshall v. Holmes*, 141 U.S. 589, 12 S. Ct. 62, 35 L. Ed. 870 (1891)
- *Kerwit Medical Products, Inc. v. N. & H. Instruments, Inc.*, 616 F.2d 833 (5th Cir. 1980)
- *Dankese Engineering, Inc. v. Ionics, Inc.*, 89 F.R.D. 154 (D. Mass. 1981)