

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Gladwell v. Reinhart

416 F. App'x 761 (10th Cir. 2011) · Decided March 22, 2011

SUMMARY

The Tenth Circuit certified questions to the Utah Supreme Court concerning whether Utah Code Ann. § 70C-7-103 creates a bankruptcy exemption for wages or merely limits garnishment outside bankruptcy. The court also asked whether pre-petition wages qualify as disposable earnings and whether the underlying debts arose from a consumer credit agreement. The appeal was stayed pending the Utah Supreme Court's consideration of the certified questions.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Deanell Reece Tacha; Paul J. Kelly, Jr.; Carlos F. Lucero
JURISDICTION	Federal
DECIDED	March 22, 2011
DISPOSITION	other
PROCEDURAL POSTURE	The Chapter 7 trustee appealed after the bankruptcy court overruled his objection to the debtor's claimed exemption in pre-petition wages. The district court summarily affirmed. The Tenth Circuit certified questions of Utah law to the Utah Supreme Court and stayed the appeal.
STANDARD OF REVIEW	Not expressly stated; the court resolved the federal statutory issue under de novo interpretation and certified unresolved questions of Utah law.
PRECEDENTIAL VALUE	Published in the Federal Appendix; the supplied text does not state a separate precedential designation.
PARTIES	David L. Gladwell, Chapter 7 Trustee v. Douglas James Reinhart, Douglas J. Reinhart, M.D., P.C.

TOPICS

bankruptcy exemptions

chapter 7

appellate procedure

statutory interpretation

federalism

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether 15 U.S.C. § 1673 creates an exemption in bankruptcy for the debtor's pre-petition wages.
2. Whether Utah Code Ann. § 70C-7-103 creates an exemption in bankruptcy or merely limits a judgment creditor's garnishment remedy outside bankruptcy.
3. If Utah Code Ann. § 70C-7-103 creates a bankruptcy exemption, whether the debtor's pre-petition wages qualify as disposable earnings under the statute.
4. If the wages qualify as disposable earnings, whether the debts at issue arose from a consumer credit agreement under Utah Code Ann. § 70C-7-103.

HOLDINGS

1. 15 U.S.C. § 1673 does not create an exemption in bankruptcy and therefore has no bearing on the debtor's claimed exemption.
2. The questions concerning whether Utah Code Ann. § 70C-7-103 creates a bankruptcy exemption, whether the wages qualify as disposable earnings, and whether the debts arose from a consumer credit agreement should be certified to the Utah Supreme Court because they control the appeal and have not been answered by Utah courts.

KEY QUOTATIONS

“In short, the Consumer Credit Protection Act sought to prevent consumers from entering bankruptcy in the first place. However, if, despite its protection, bankruptcy did occur, the debtor’s protection and remedy remained under the Bankruptcy Act.” (763)

“In the interests of comity and federalism, the Utah Supreme Court should be permitted to answer these questions in the first instance if it should choose to do so.” (764)

FACTUAL BACKGROUND

Douglas James Reinhart filed a Chapter 7 bankruptcy petition on January 28, 2000. The Chapter 7 trustee later sought at least \$49,000 in salary, bonuses, and interest that Reinhart had earned before filing but that his professional corporation paid to or still owed him after the petition date. Reinhart claimed that 75% of those pre-petition wages were exempt under federal and Utah wage-garnishment provisions and related Utah bankruptcy authority.

PROCEDURAL HISTORY

Reinhart filed for Chapter 7 bankruptcy protection in 2000. In 2004, the trustee commenced an adversary proceeding seeking recovery of pre-petition wages that had been paid to or remained owed to Reinhart after the petition date. The bankruptcy court held that 75% of the wages were exempt under federal or Utah law, and the district court summarily affirmed. The Tenth Circuit certified three questions concerning Utah's wage-garnishment statute to the Utah Supreme Court and ordered the appeal stayed.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The Clerk was directed to transmit the certification order, briefs, and appendices to the Utah Supreme Court, and the appeal was ordered stayed pending consideration of the certified questions.

CASES CITED

- In re Stewart, 32 B.R. 132, 139 (Bankr. D. Utah 1983)
- Kokoszka v. Belford, 417 U.S. 642, 94 S. Ct. 2431, 41 L. Ed. 2d 374 (1974)
- Smith v. Frazier, 421 B.R. 513, 518 (S.D. Ill. 2009)
- In re Riendeau, 293 B.R. 832, 838-39 (D. Vt. 2002)
- In re W. Side Prop. Assocs., 13 P.3d 168, 170-71 (Utah 2000)

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