

SUPREME COURT OF ARIZONA

Lachter v. Smith, 209 Ariz. 343

101 P.3d 637 (2004) · No. CV-04-0153-CQ · Decided December 1, 2004

SUMMARY

The Arizona Supreme Court answered certified questions concerning the timeliness of renewing a state-court judgment during a debtor's bankruptcy proceeding. It held that Arizona law does not independently extend the deadline for filing a renewal affidavit because of a bankruptcy stay, but that federal bankruptcy law may extend the effective renewal period. Applying the Bankruptcy Appellate Panel's determination that the period was extended by 487 days, the court held that the Lachters' renewal affidavits were timely.

CASE DETAILS

COURT	Supreme Court of Arizona
WRITING FOR THE COURT	Justice Berch; Chief Justice Charles E. Jones; Vice Chief Justice Ruth V. McGregor; Justice Michael D. Ryan; Justice Andrew D. Hurwitz
JURISDICTION	Arizona
DECIDED	December 1, 2004
DOCKET	CV-04-0153-CQ
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Arizona answered two certified questions of Arizona law from the United States Bankruptcy Court for the District of Arizona concerning the timeliness of affidavits renewing a state-court judgment during a pending bankruptcy case.
STANDARD OF REVIEW	De novo review of certified questions of state law.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Arizona, decided en banc.
PARTIES	Sidney Lachter and Sandra Lachter, successors to Neepawa Enterprises, Ltd. v. James M. Smith

TOPICS

[automatic stay](#)[bankruptcy](#)[statutory interpretation](#)[civil procedure](#)[remedies](#)

PRACTICE AREAS

Bankruptcy

Civil procedure

Judgment enforcement

Statutory interpretation

Remedies

QUESTIONS PRESENTED

1. Whether Arizona law extends or changes the deadline for filing an affidavit of renewal of judgment when a bankruptcy case and automatic stay are pending during the statutory renewal period.
2. Whether either of the Lachters' 1997 renewal affidavits was timely under the extension recognized by the Bankruptcy Appellate Panel under 11 U.S.C. § 108(c)(1).

HOLDINGS

1. Arizona law does not extend or otherwise change the deadline for filing an affidavit of renewal of judgment merely because the debtor is in bankruptcy or an automatic stay prevents enforcement of the judgment.
2. Because the Bankruptcy Appellate Panel determined that 11 U.S.C. § 108(c)(1) extended the renewal deadline by 487 days, Arizona law would treat an affidavit filed from December 6, 1996, through July 6, 1998, as timely; therefore, the Lachters' 1997 renewal affidavits were timely.

KEY QUOTATIONS

“A judgment creditor's inability to enforce a judgment during the initial or a subsequent statutory five-year period, whether because of bankruptcy stay or other reasons, does not extend the deadline imposed by A.R.S. §§ 12-1551 and 12-1612 to file a renewal affidavit.” (101 P.3d at 639)

“As a matter of Arizona law, however, the filing of an affidavit of renewal is simply a ministerial action intended in part to alert interested parties to the existence of the judgment.” (101 P.3d at 639)

“We therefore answer the first certified question in the negative: Under Arizona law, the time to file an affidavit of renewal of judgment is not changed or extended by the pendency of a bankruptcy case.” (101 P.3d at 640)

FACTUAL BACKGROUND

The Lachters held a 1987 money judgment against James Smith and timely renewed it in 1992. Smith filed for bankruptcy in July 1995, triggering the automatic stay, and received a general discharge before the bankruptcy court determined that the Lachters' debt was nondischargeable. The Lachters filed renewal affidavits in November and December 1997, after the original renewal period had passed but while the bankruptcy proceedings and related determinations were ongoing.

PROCEDURAL HISTORY

The Lachters obtained a money judgment against Smith in 1987 and renewed it on March 6, 1992. Smith filed for bankruptcy in July 1995, and the bankruptcy court later determined that the debt was nondischargeable. The Lachters filed renewal affidavits in November and December 1997. The Bankruptcy Appellate Panel held that 11 U.S.C. § 108(c)(1) extended the applicable renewal period but remanded for a determination whether the

affidavits were timely. The bankruptcy court then certified two questions of Arizona law to the Arizona Supreme Court, which accepted them and answered the first in the negative and the second in the affirmative.

DISPOSITION

other

CASES CITED

- In re Smith, 242 B.R. 694, 696 (B.A.P. 9th Cir. 1999)
- Smith II, 293 B.R. 220, 223-27 (B.A.P. 9th Cir. 2003)
- In re Spirtos, 221 F.3d 1079 (9th Cir. 2000)
- In re Morton, 866 F.2d 561, 564 (2d Cir. 1989)
- J.C. Penney v. Lane, 197 Ariz. 113, 119, ¶ 29, 3 P.3d 1033, 1039 (App. 1999)
- Hazel v. Van Beek, 135 Wash. 2d 45, 954 P.2d 1301, 1310 (1998)
- Nowels v. Bergstedt, 120 Ariz. 112, 114, 584 P.2d 576, 578 (App. 1978)
- Barnett v. Lewis, 170 Cal. App. 3d 1079, 1090, 217 Cal. Rptr. 80, 86 (1985)
- O'Lane v. Spinney, 110 Nev. 496, 874 P.2d 754, 756 (1994)
- Barber v. Emporium P'ship, 800 P.2d 795, 797 (Utah 1990)