

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

In re Dean Maynard Boland

In re Dean Maynard Boland · No. 19-3205/3211 · Decided January 3, 2020

SUMMARY

The Sixth Circuit held that a \$300,000 judgment against Dean Maynard Boland under 18 U.S.C. § 2255 was not dischargeable in bankruptcy because Boland willfully and maliciously injured the plaintiffs. The court found clearly erroneous the bankruptcy court’s findings that Boland did not use the images in later court proceedings and did not know they depicted real minors. The court reversed and remanded with instructions to enter judgment for the plaintiffs.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	McKeague, Circuit Judge; Bush, Circuit Judge; Nalbandian, Circuit Judge
JURISDICTION	Federal
DECIDED	January 3, 2020
DOCKET	19-3205/3211
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal and cross-appeal from the Sixth Circuit Bankruptcy Appellate Panel's reversal of a Chapter 7 bankruptcy court judgment discharging Doe and Roe's civil judgment against Boland.
STANDARD OF REVIEW	The Sixth Circuit reviewed the bankruptcy court's decision directly. Factual findings were reviewed for clear error, and legal conclusions were reviewed de novo.
PRECEDENTIAL VALUE	Published and recommended for full-text publication
PARTIES	Dean Maynard Boland v. Jane Doe, Jane Roe

TOPICS

- nondischargeable debts
- chapter 7
- bankruptcy
- standard of review
- appellate procedure

PRACTICE AREAS

- bankruptcy
- bankruptcy appeals
- nondischargeability

QUESTIONS PRESENTED

1. Whether Doe and Roe's civil judgment under 18 U.S.C. § 2255 resulted from a willful and malicious injury within the meaning of 11 U.S.C. § 523(a)(6).
2. Whether the bankruptcy court clearly erred in finding that Boland did not use the morphed images in Ohio court proceedings and did not know that the images depicted real minors.
3. Whether § 523(a)(6) requires a debtor to subjectively desire to injure the creditor, or instead is satisfied when the debtor is substantially certain that injury will result.

HOLDINGS

1. A judgment under 18 U.S.C. § 2255 is excepted from discharge when the debtor knowingly creates and displays morphed child pornography depicting real minors, because the law presumes injury from that conduct and the debtor is substantially certain that injury will result.
2. The bankruptcy court clearly erred in finding that Boland did not use the images in Ohio proceedings and did not know that the images depicted real minors.
3. Section 523(a)(6) does not require that the debtor consciously desire to harm the creditor; substantial certainty that injury will result is sufficient.

KEY QUOTATIONS

“A debtor willfully and maliciously injures a creditor if, acting without just cause or excuse, he knows or is substantially certain that his actions will cause injury.” (at 4)

“This is the rare case of clear error.” (at 8)

“The answer is substantial certainty.” (at 9)

“Under § 523(a)(6), that means Boland willfully and maliciously injured Doe and Roe, and their judgment must be excepted from discharge.” (at 9)

FACTUAL BACKGROUND

Boland created morphed images depicting two real minors, Jane Doe and Jane Roe, engaged in sexual acts, and used the images in court proceedings as part of a child-pornography defense. He later admitted in a federal pretrial diversion agreement that he violated federal law by creating the images and acknowledged facts showing that the photographs depicted real, identifiable minors. Doe and Roe obtained a combined \$300,000 judgment under 18 U.S.C. § 2255, which Boland sought to discharge in Chapter 7 bankruptcy.

PROCEDURAL HISTORY

Doe and Roe obtained a combined \$300,000 civil judgment against Boland under 18 U.S.C. § 2255. After Boland filed Chapter 7 bankruptcy, they brought an adversary proceeding seeking to except the judgment from discharge under 11 U.S.C. § 523(a)(6). The bankruptcy court discharged the judgment, the Bankruptcy Appellate Panel reversed, and Boland appealed while Doe and Roe filed a cross-appeal. The Sixth Circuit reviewed the bankruptcy court's decision directly and reversed, remanding with instructions to enter judgment for Doe and Roe.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the bankruptcy court with instructions to enter judgment in favor of Doe and Roe, thereby excepting their civil judgment from discharge.

CASES CITED

- Doe v. Boland, 698 F.3d 877 (6th Cir. 2012)
- Boland v. Holder, 682 F.3d 531 (6th Cir. 2012)
- Doe v. Boland, 630 F.3d 491 (6th Cir. 2011)
- Marrama v. Citizen's Bank of Mass., 549 U.S. 365, 367 (2007)
- In re Krohn, 886 F.2d 123, 125 (6th Cir. 1989)
- Grogan v. Garner, 498 U.S. 279, 287 (1991)
- In re Trost, 735 F. App'x 875, 878 (6th Cir. 2018)
- Jendusa-Nicolai v. Larsen, 677 F.3d 320, 323-24 (7th Cir. 2012)
- Kawaauhau v. Geiger, 523 U.S. 57, 61-62 (1998)
- In re Markowitz, 190 F.3d 455, 464-66 (6th Cir. 1999)
- In re Kennedy, 249 F.3d 576, 582-83 (6th Cir. 2001)
- Wheeler v. Laudani, 783 F.2d 610, 615 (6th Cir. 1986)
- In re Curry, 509 F.3d 735, 735 (6th Cir. 2007)
- United States v. Mack, 159 F.3d 208, 215 (6th Cir. 1998)
- United States v. U.S. Gypsum Co., 333 U.S. 364, 395 (1948)
- Anderson v. City of Bessemer City, 470 U.S. 564, 571-75 (1985)
- Berry v. Schmitt, 688 F.3d 290, 296 n.1 (6th Cir. 2012)
- Ashcroft v. Free Speech Coal., 535 U.S. 234, 242, 256-58 (2002)
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986)
- In re Trantham, 304 B.R. 298, 307 (B.A.P. 6th Cir. 2004)