UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Laughlin v. United States Internal Revenue Service

98 B.R. 494 (D. Neb. 1989) · No. Bankruptcy No. 87-1067; Nos. CV88-L-419 to CV88-L-421 · Decided March 29, 1989

SUMMARY

The United States District Court for the District of Nebraska affirmed the bankruptcy court's denial of a Chapter 13 trustee's motion for contempt and sanctions against the IRS. The court held that, upon confirmation of a Chapter 13 plan, property of the estate generally revests in the debtor under 11 U.S.C. § 1327(b), unless the plan or confirmation order provides otherwise, and therefore the IRS levy did not violate the automatic stay. The court also declined to order the IRS to take steps to reduce the trustee's administrative burdens under the Anti-Injunction Act.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	Urbom, District Judge
JURISDICTION	Nebraska
DECIDED	March 29, 1989
DOCKET	Bankruptcy No. 87-1067; Nos. CV88-L-419 to CV88-L-421
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal by the Chapter 13 trustee from the bankruptcy court's denial of her motion for contempt and sanctions against the IRS for allegedly violating the automatic stay by serving a notice of levy on attorney fees held or to be received for distribution under confirmed Chapter 13 plans.
STANDARD OF REVIEW	Appellate review of the bankruptcy court's legal conclusions, including statutory interpretation and application of the automatic-stay provisions; the opinion does not state a separate formal standard-of-review formulation.
PRECEDENTIAL VALUE	Published district court memorandum opinion; persuasive authority within the District of Nebraska and nonbinding authority elsewhere.
PARTIES	Kathleen A. Laughlin, Trustee v. United States Internal Revenue Service

TOPICS

chapter 13 · automatic stay · tax collection · statutory interpretation · appellate procedure

PRACTICE AREAS

Bankruptcy · Federal tax collection · Appellate procedure

QUESTIONS PRESENTED

1. After confirmation of a Chapter 13 plan, do presently undistributed funds and future funds received for distribution under the plan remain property of the bankruptcy estate or revest in the debtor under 11 U.S.C. § 1327(b)?
2. Did the IRS violate the automatic stay under 11 U.S.C. § 362 by serving a notice of levy on post-confirmation property that had revested in the debtor?
3. Could the bankruptcy court order the IRS to take actions designed to reduce the trustee's administrative burdens resulting from future notices of levy, or would such relief be an injunction barred by 26 U.S.C. § 7421(a)?

HOLDINGS

1. Unless the Chapter 13 plan or confirmation order provides otherwise by vesting title to specified property in another entity, confirmation under 11 U.S.C. § 1327(b) revests all property of the estate in the debtor. Thus, post-confirmation funds held or later received by the trustee for payments under the plan were not property of the estate in this case.
2. The IRS did not violate the automatic stay by levying on post-confirmation funds that had revested in the debtor rather than remaining property of the estate.
3. The bankruptcy court properly declined to order the IRS to take actions intended to simplify the trustee's administrative burdens because that relief would constitute injunctive relief barred by the Anti-Injunction Act, 26 U.S.C. § 7421(a).

KEY QUOTATIONS

> *"A basic doctrine of statutory construction declares that where possible, two statutes must be read so as to give meaning to each statute."* (495)

> *"I do not interpret the words, "Except as otherwise provided in the plan or order confirming the plan," to except all property mentioned in the plan from section 1327's rule that all property of the estate revests in the debtor."* (495)

FACTUAL BACKGROUND

The IRS served Chapter 13 trustee Kathleen Laughlin with a notice of levy seeking property held for an attorney representing three debtors whose plans she administered. Laughlin discovered attorney fees due in two confirmed cases and potentially due in a third case if that plan were confirmed. The parties stipulated that the levy concerning the unconfirmed plan was premature, and Laughlin sought contempt and sanctions, asserting that the levy violated the automatic stay.

PROCEDURAL HISTORY

The bankruptcy judge denied Laughlin's motion for contempt and sanctions, ruling that post-confirmation funds held by or later received by the trustee were not property of the bankruptcy estate under 11 U.S.C. § 1327(b), and therefore the IRS had not violated the automatic stay. The bankruptcy judge also declined to order the IRS to take measures to reduce the trustee's administrative burdens because such relief would constitute an injunction barred by the Anti-Injunction Act. The district court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Stark, 8 B.R. 233 (Bankr. N.D. Ohio 1981)
- In re Mason, 45 B.R. 498 (Bankr. D. Ore. 1984)
- In re Dickey, 64 B.R. 3 (Bankr. E.D. Va. 1985)
- In re Walker, 67 B.R. 811 (Bankr. C.D. Cal. 1986)
- In re Walker, 84 B.R. 888 (Bankr. D.C. 1988)
- In re Root, 61 B.R. 984 (Bankr. D. Colo. 1986)
- In re Adams, 12 B.R. 540 (Bankr. Utah 1981)
- In re Clark, 71 B.R. 747 (Bankr. E.D. Pa. 1987)
- In re Aneiro, 72 B.R. 424 (Bankr. S.D. Cal. 1987)