

FILED 07/17/97

NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT**

IN RE JULIE JAYE LOVE, also
known as Julie Jaye Bredenberg,
also known as Julie Jaye Conrad,

Debtor.

BAP No. WY-97-001

JULIE JAYE LOVE,

Appellant,

v.

RANDY L. ROYAL, Trustee,

Appellee.

Bankr. No. 96-20766
Chapter 7

ORDER AND JUDGMENT*

Appeal from the United States Bankruptcy Court
for the District of Wyoming

Before McFEELEY, Chief Judge, PEARSON, and CORNISH, Bankruptcy Judges.

CORNISH, Bankruptcy Judge.

This Court is asked to review the Bankruptcy Court's order compelling the debtor to cooperate with the Chapter 7 trustee by obtaining appraisals of vehicles and providing copies of titles to vehicles to the trustee. We conclude that the Bankruptcy Court's decision should be affirmed.

JURISDICTION

A Bankruptcy Appellate Panel, with the consent of the parties, has

* This order and judgment has no precedential value and may not be cited, except for the purposes of establishing the doctrines of law of the case, res judicata, or collateral estoppel. 10th Cir. BAP L.R. 8010-2.

jurisdiction to hear appeals from final judgments, orders and decrees of bankruptcy judges within this circuit. 28 U.S.C. § 158(a), (b)(1), (c)(1). Since neither party to this appeal has opted to have the case heard by the District Court for the District of Wyoming, they have consented to the jurisdiction. 10th Cir. BAP L.R. 8001-1(c).

The Bankruptcy Appellate Panel may affirm, modify, or reverse a bankruptcy court's judgment, order, or decree, or remand with instructions for further proceedings. Findings of fact shall not be set aside unless clearly erroneous. Fed. R. Bankr. P. 8013; *see First Bank v. Reid (In re Reid)*, 757 F.2d 230, 233-34 (10th Cir. 1985). The clearly erroneous standard does not apply to the bankruptcy court's conclusions of law. Conclusions of law are reviewed *de novo*. *Pierce v. Underwood*, 487 U.S. 552, 558 (1988).

FACTS

In this Chapter 7 case, the debtor listed on Schedule B - Personal Property a 1996 Dodge Neon and a 1994 Toyota 4 x 4. She claimed, on Schedule C, the 1996 Dodge Neon as exempt. The value of the exemption was set forth as "0." On the debtor's Statement of Intention, she stated that she would surrender the 1994 Toyota 4 x 4 and would reaffirm the debt on the 1996 Dodge Neon. At the meeting of creditors, the trustee requested additional information on the two vehicles; specifically, he requested copies of titles to the two vehicles and appraisals for each of the vehicles. The trustee did not request that the debtor pay for an appraisal, but only obtain a free appraisal.

The debtor did not provide the information requested and the trustee filed a Motion to Compel. The Motion was granted and the debtor filed a Motion for Reconsideration. A hearing was conducted on the Motion for Reconsideration and subsequently, the Motion was denied. The Bankruptcy Court ordered the debtor to obtain copies of the titles to the vehicles and appraisals by December 13, 1996. The court further ordered that if the debtor was unable to

obtain appraisals, the debtor and trustee would jointly select an appraiser and the debtor would make arrangements with the appraiser to have the vehicles appraised. That order prompted this appeal.

The debtor eventually provided the title to the 1996 Dodge Neon; however, no other documents were provided.

DISCUSSION

The pivotal issue in this case is whether the Bankruptcy Court erred in concluding that the debtor's duties as set forth in 11 U.S.C. § 521(3) and (4) required the debtor to obtain appraisals and copies of the vehicle titles to give to the trustee. A petition in bankruptcy confers both burdens and benefits upon the debtor. *Robb v. Sowers (In re Robb)*, 97 B.R. 480, 486 (Bankr. N.D. Ind. 1989). The benefit is the bankruptcy discharge. *Id.* The burdens are the duties impressed upon the debtor. *Id.* "The duties imposed by § 521 are affirmative obligations." *Id.* at 487. The debtor's cooperation with the trustee is a prerequisite to a granting of a discharge. *Id.* (quoting *In re McDonald*, 25 B.R. 186, 189 (Bankr. N.D. Ohio 1982)). Section 521(3) and (4) of the Bankruptcy Code provide:

The debtor shall--

. . .

(3) if a trustee is serving in the case, cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title;

(4) if a trustee is serving in the case, surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate, whether or not immunity is granted under section 344 of this title

"[T]he Bankruptcy Code delineates the rights and duties of the trustees and debtors. These rules are made for the express purpose of facilitating the complete and orderly administration of the Bankruptcy estates. If the parties do not follow these rules, that purpose is frustrated." *In re McDonald*, 25 B.R. 186, 188

(Bankr. N.D. Ohio 1982). The court in *McDonald* stated that it is essential for debtors to assist the trustees since the trustees have large caseloads and get paid very little to administer the cases. *Id.* “[S]ince the debtors are in possession of most, if not all of the information required by the trustee, they must assist him by providing this information.” *Id.* at 188-89. When a debtor voluntarily files bankruptcy, she is required to open up all her records to the trustee. *Id.* Further, the committee note to Schedule B - Personal Property states that the trustee may request copies of any documents concerning property of the estate.

The debtor argues that the Dodge Neon is no longer property of the estate because the time for filing objections to exemptions had expired and no objection was filed. The debtor contends that § 521(4) does not apply to exempt property. Central to the debtor’s argument is that the property itself is exempt.

Wyo. Stat. Ann. § 1-20-106(a)(iv) (Michie 1997) provides that: “[a] motor vehicle not exceeding in value two thousand four hundred dollars (\$2,400.00)” is exempt. The Tenth Circuit in *Wilson v. General Motors Acceptance Corp. (In re McCoy)*, 643 F.2d 684, 687 (10th Cir. 1981) noted that the Oklahoma exemption statute for motor vehicles extended to the debtor’s equitable interest in the vehicle and not the vehicle itself. Okla. Stat. Ann. tit. 31, § 1(A)(13) (West 1991) provides that a person’s interest in a motor vehicle, not to exceed \$3,000.00 in value, is exempt. There are no reported Wyoming cases dealing with the issue of whether the motor vehicle exemption extends to the property itself or to the debtor’s equity interest.

The Wyoming statute provides that the “value” up to \$2,400.00 is exempt. The “value” which is exempt is the debtor’s “value” or equity interest. It is implicit in the Bankruptcy Court’s order that the exemption in Wyoming is in the debtor’s equity interest in her vehicle. We agree. Since the debtor had no equity interest and claimed her exemption as zero, there was no reason for the trustee to object to the debtor’s exemption. Further, the trustee had not abandoned the

vehicle. Thus, the 1996 Dodge Neon remained property of the estate.

Since both vehicles were property of the estate, the debtor must turn over all books, documents, records and papers relating to property of the estate. This Court does not find that requiring the debtor to supply copies of the vehicle titles to the trustee is burdensome. Further, we do not find that requiring the debtor to obtain free appraisals is burdensome. The debtor availed herself of relief under the Bankruptcy Code and therefore, she must comply with the Code provisions and cooperate with the trustee regarding property of the estate.

Therefore, the Bankruptcy Court's decision is **AFFIRMED**.