

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20286
Summary Calender

In The Matter of: TOMMY E. SWATE,

Debtor.

TOMMY E. SWATE,

Appellant,

VERSUS

W. STEVE SMITH,

Appellee.

Appeal from the United States District Court
for the Southern District of Texas
(H-96-CV-2164)

November 26, 1999

Before DAVIS, EMILIO M. GARZA, and DENNIS Circuit Judges.

PER CURIAM:*

Tommy E. Swate, the debtor in a Chapter 7 bankruptcy petition, challenges the judgment rendered by the bankruptcy court and affirmed by the district court denying Swate's discharge. The denial of discharge was predicated on §§ 727(a)(2), (a)(3), (a)(4)(A), (a)(5) of the Bankruptcy Code for *inter alia* Swate's concealment of assets in the bankruptcy proceeding. The only significant arguments Swate makes are: (1)

*Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

the bankruptcy court's findings of concealment of assets are clearly erroneous and (2) the Trustee failed to adequately plead the doctrine of "continuing concealment" under which theory the bankruptcy court allowed the Trustee to produce evidence of acts of concealment more than one year before the bankruptcy petition was filed.

Our review of the record reveals that the bankruptcy court's findings of multiple acts of concealment of assets is amply supported by the record. We are also satisfied that the Trustee's suit, which alleged the specific items of property he contended had been concealed, gave Swate adequate notice to defend the Trustee's claim of concealment of assets. The bankruptcy court did not abuse its discretion in determining that no specific allegation pleading "continuing concealment" was required.

Because the courts below committed no reversible error the judgment of the district court is affirmed.

AFFIRMED.