

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-1604
Summary Calendar

IN THE MATTER OF: R. DON WRIGHT, Debtor.

R. DON WRIGHT,

Appellant,

versus

STANLEY WRIGHT, Trustee,

Appellee.

Appeal from the United States District Court
For the Northern District of Texas
(1:91-CV-061-C (con. w/1:91-CV-062-C))

(December 22, 1992)

Before POLITZ, Chief Judge, JOLLY and EMILIO M. GARZA, Circuit Judges.

POLITZ, Chief Judge:*

Don Wright, debtor in bankruptcy, appeals the imposition of sanctions resulting in the entry of default judgment in favor of his creditors. Finding no error, we affirm.

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Background

On August 24, 1987, Wright filed a **pro se** petition under Chapter 11 of the Bankruptcy Code which later converted to Chapter 7. On June 21, 1988, NCNB and John Deere, both creditors of Wright, filed adversary proceedings objecting to the discharge of their debts and seeking declaratory relief. Seven days later NCNB moved to inspect and appraise property Wright claimed as exempt. Shortly thereafter the bankruptcy court entered an order allowing both NCNB and John Deere access to the disputed property. The order required the creditors to provide five-days notice of the inspection. Wright then unsuccessfully moved to have his exemptions deemed granted.

Wright moved the court for protection when the creditors notified him of the date of inspection. The court considered and rejected this request. When representatives of NCNB and John Deere arrived at Wright's home and announced their intentions to enter, no one answered the door. The creditors withdrew and informed the court. Thereafter, joined by the trustee, they notified Wright of an inspection to occur five days later. Wright responded by notifying all concerned that no access would be allowed, regardless of the court order.

John Deere moved for sanctions, citing Wright's contempt of the court's order, refusal to comply with discovery orders, and taking depositions without providing notice. NCNB and the trustee joined this motion. The bankruptcy court again ordered Wright to allow his creditors access to his home and to allow them to conduct

a proper inspection and inventory. Wright filed a motion asking the court to reconsider. That motion was denied. Thereafter, after being notified of yet a third date of inspection, Wright again refused to comply with the court's order.

On three occasions Wright argued to the bankruptcy court that his creditors should not be allowed access to his home. The court thrice rejected the argument and Wright thrice ignored the court's order. A third motion for sanctions was made. The bankruptcy court conducted a full evidentiary hearing and then struck Wright's answer, entered default judgment in favor of John Deere and NCNB, denied Wright a discharge as the trustee had requested, and imposed monetary sanctions. The court noted from the bench that "It . . . appears that from the very start of this case, he set about to conceal his financial records" The court then denied Wright's motion for reconsideration.

On appeal, the district court affirmed the order; Wright timely appealed.

Analysis

The bankruptcy court's authority to sanction Wright flows from Bankruptcy Rule 7037 which adopts Fed. R. Civ. P. 37. Rule 37 provides: "[T]he court . . . may invoke such orders in regard to the failure [to comply] as are just, and among others the following: 'An order striking out pleadings . . . or dismissing the action . . . or rendering a judgment by default against the disobedient party.'" Fed.R.Civ.P. 37(b)(2) & (2)(C). Wright

proceeded through the bankruptcy proceedings displaying open contempt for the process and the bankruptcy court's authority. The following colloquy is telling:

Q: So Mr. Wright if the court issues a fourth order, or a fifth order compelling you to allow the creditors entry to your residence, to inspect and appraise the entire contents, you will continue to refuse to obey those orders?

A: I will refuse to let you in the house; yes, sir.

Wright claimed that virtually all the property used and enjoyed by him belonged to someone else and he refused to allow the trustee or his creditors access to the property to evaluate or determine the true ownership of the assets he held. The court found these claims of second-party ownership to be suspect. Wright claims, for example, "that Cami Corporation owns lots of his household furniture and a condominium in New Mexico, which he enjoys." The bankruptcy court was aware of no business by that corporation.

Wright offered to place some disputed items out on his lawn for the creditors and the trustee to photograph. The court rejected this suggestion as ridiculous and concluded that Wright sought to conceal valuable property inside his home because Wright was afraid that expensive furnishings would quickly use up his \$30,000 personal property exemptions. Given the necessity of the valuation and the lack of an iota of cooperation from Wright, the order allowing access to the property was reasonable; Wright's present arguments, which imply the contrary, are rejected.

Wright made it impossible for the trustee to carry out his responsibilities or for his creditors to protect their legitimate interests. More importantly, Wright placed himself above the law. Such conduct was not tolerated. Nor should it be.

Wright claims that the sanctions were improper because the creditors did not specify particular property in their objections to his claimed exemptions. This seems to beg the question, until the creditors have an opportunity to conduct discovery of the value of the personal property held by Wright, they can hardly make specific objections. If the creditors could not make specific objections, it is due not to their slovenliness but to Wright's conduct after the court determined that an inspection was reasonable and necessary. It is not the debtor's place to pick and choose among the orders of the bankruptcy court he will honor. Self help is not an alternative to appeal.¹ This is true even when the order appears to run afoul of constitutional guarantees.²

Wright invoked the aid of the court in seeking a benefit he desired -- a discharge of his debts in bankruptcy. As long as the court did his bidding he was inclined to obey. When orders adverse to Wright's position were issued he chose to ignore them without

¹**Maness v. Meyers**, 419 U.S. 449 (1975) ("Persons who make private determinations of the law and refuse to obey an order generally risk criminal contempt even if the order is ultimately ruled incorrect.") (citations omitted).

²**United States v. Dickinson**, 465 F.2d 496, 509 (5th Cir. 1972), **cert. denied**, 414 U.S. 979 (1973).

seeking interlocutory appeal³ or mandamus relief. Wright's conduct constituted open and notorious contempt of the bankruptcy court. We cannot and will not countenance such.

AFFIRMED.

³**See** 28 U.S.C. § 1334 (allowing interlocutory appeal to the district court upon leave of that court).