IN THE UNITED STATES COURT OF APPEALS for the Fifth Circuit

No. 94-60327 (Summary Calendar)

IN THE MATTER OF: PATRICK WILLIAM SODDY,

Debtor,

PATRICK WILLIAM SODDY,

Appellant,

versus

GAIL LOUISE SODDY,

Appellee.

Appeal from the United States District Court for the Southern District of Texas (CA-B-93-169)

(October 20, 1994)

Before DUHÉ, WIENER and STEWART, Circuit Judges.

PER CURIAM:*

Patrick W. Soddy appeals the judgment of the district court affirming a bankruptcy court finding that he had abandoned the homestead exemption for the house he owns near Bayview, Texas.

Soddy contends that the bankruptcy court incorrectly interpreted <u>Caulley v. Caulley</u>, 806 S.W.2d 795 (Tex. 1991), as stating that abandonment can be proven by the percentage of time spent away from the homestead. We have reviewed the bankruptcy court's memorandum opinion. We find that the bankruptcy court

^{*} 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

correctly relied on <u>Caulley</u> as determining the level of proof needed to prove abandonment. <u>See Caulley</u>, 806 S.W.2d at 797. Thus, this contention is without merit.

Soddy also contends that the bankruptcy court erred in finding that he had abandoned his homestead. After reviewing the testimony and evidence presented at trial, we hold that the bankruptcy court's findings are not clearly erroneous. <u>See In re Compton</u>, 891 F.2d 1180, 1183 (5th Cir. 1990)(holding that the findings of the bankruptcy court will not be disturbed in the absence of clear error). Thus, this contention is without merit.

A determination on these two issues pretermits any need to discuss the other issues raised in appellant's brief.

AFFIRMED.

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