

State Courts: Hands Off the Automatic Stay

By
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In a decision generating lots of comment, the Ninth Circuit Court of Appeals has held that state courts lack jurisdiction to determine whether the automatic stay in a bankruptcy case applies to a pending action. *In re Gruntz*, 166 F.3d 1020 (9th Cir. 1999). In *Gruntz*, the debtor asserted that the automatic stay prevented him from being criminally prosecuted for failure to pay child support (this was before the 1994 amendment adding Section 362(b)(2) creating an exception to the stay for child support collection proceedings). The state court rejected this defense, debtor was convicted, and the state court of appeals affirmed. In the meantime, the debtor filed an adversary proceeding in bankruptcy court seeking a declaratory judgment that his conviction was void. The bankruptcy court granted the state's motion to dismiss the adversary proceeding, ruling that the debtor's argument had already been rejected by the state courts. The district court affirmed dismissal of the adversary proceeding, and the debtor appeal to the Ninth Circuit. The Circuit REVERSED!

The Court of Appeals noted that under 28 U.S.C. § 1334(a), the bankruptcy courts have *exclusive* jurisdiction over bankruptcy cases. The Court determined that the automatic stay is "one of the fundamental debtor protections provided in the bankruptcy laws," and that allowing state courts to determine the extent of that stay "would be inconsistent with and subvert the exclusive jurisdiction of the federal courts." 166 F.3d at 1024. Therefore, the Court concludes, the state court lacked jurisdiction to determine whether the stay prevented prosecution of the debtor, and the bankruptcy court was wrong for dismissing the adversary proceeding on the basis that the debtor was collaterally estopped from making the argument.

So where does this leave a state court when a litigant argues that an action can not proceed because of the bankruptcy automatic stay? Presumably, the state court could either stay the state action and send the parties to bankruptcy court to get the issue decided, or could proceed and run the risk of entering a void judgment. From the perspective of the state court, neither approach is very efficient.

Gruntz has generated an abundance of criticism. Others note that an action to determine whether the automatic stay effects a state court proceeding is not a bankruptcy *case* over which the federal courts have exclusive jurisdiction. They suggest that such a proceeding is instead a civil proceeding arising under title 11, or arising in or related to a case under title 11, governed by 28 U.S.C. § 1334(b), which grants original *but not exclusive* jurisdiction to the bankruptcy courts. The decision in *Gruntz* also arguably departs from prior case law in the Ninth Circuit, and is at odds with case law from other circuits. Sounds like a good candidate for *en banc* review, or an appeal to the Supreme Court.