





case as well as the debt to Cunningham, and that he has been unable to get the boat and trailer titled in Virginia because Cunningham has never delivered the titles to same. In support of his Motion the Debtor quotes a sentence from this Court's Memorandum Opinion, also dated July 19, 2001, to the effect that he was "entitled to enjoy whatever ownership rights were acquired . . . as a result of the . . . [purchase] transaction." The Debtor also alleges that as a result of the discharge entered in this case on November 16, 2004 his \$1,000 debt to Cunningham has been discharged and therefore he is entitled to the full ownership and enjoyment of the boat, motor and trailer. The Debtor represents that he included the property in question on Schedule B of his petition and claimed the same as exempt on Schedule C. No claim having been filed to such exemption claim, he continues to have whatever pre-bankruptcy rights he had in such property free of the claims of his bankruptcy estate. The Debtor further represents in his Motion that Cunningham has filed no proof of claim in this bankruptcy case and a review of the proofs of claim which have been filed confirms such fact. Pursuant to the provisions of this Court's Order entered on October 9, 2003 in this case Mr. Giles has filed his Motion with the Clerk for review by the Court before noticing the same for a hearing. It is this Court's responsibility to determine whether the Motion on its face appears to have sufficient merit to permit the same to go forward for a hearing before the Court. For the reasons noted below, the Court concludes that it does not have jurisdiction to consider the Motion and therefore it should be dismissed.

#### CONCLUSIONS OF LAW

This Court has jurisdiction of this proceeding by virtue of the provisions of 28 U.S.C. §§ 1334(a) and 157(a) and the delegation made to this Court by Order from the District Court on July 24, 1984. 28 U.S.C. § 157(b)(1) provides that bankruptcy judges, when the District Court has referred bankruptcy cases to them pursuant to 28 U.S.C. § 157(a), which

the District Court for this District has done as referenced in the preceding sentence, "may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, and may enter appropriate orders and judgments, subject to review under section 158 of this title." The jurisdiction of a bankruptcy court to hear and determine any particular matter involving a bankruptcy debtor is of course derivative of the jurisdiction accorded to the district courts by 28 U.S.C. § 1334(a) and (b) of "all cases under title 11" and "all civil proceedings arising under title 11, or arising in or related to cases under title 11."

The fact that a bankruptcy debtor has some type of legal dispute with a third party does not automatically mean that the bankruptcy court has jurisdiction to determine that particular dispute. The Debtor's dispute with Cunningham is not a part of the bankruptcy case itself. It does not involve a claim against property which the bankruptcy trustee seeks to administer for the benefit of the Debtor's creditors. Neither does it involve any issue as to the dischargeability of Mr. Giles's debt to Cunningham. The latter has not filed any complaint seeking to determine the dischargeability of such debt or the Debtor's entitlement to a discharge. In fact the Debtor has been granted a discharge in this case and the Debtor represents that his specific debt to Cunningham has been discharged. Under section 522(a) and (l) of title 11, the Debtor's unobjected to claim of exemption results in the claimed property being "exempt" from the bankruptcy estate. This Court's prior order relied upon by Mr. Giles directed Cunningham to restore the situation which existed prior to the filing of the prior case, i.e., the Debtor's physical possession of the boat, motor and trailer, to remedy the violation of the automatic stay which had occurred, and did not order Cunningham to do anything else. In any event the dismissal of that 2001 bankruptcy case upon the Debtor's own motion revested "the property of the estate in the entity in which such property was vested immediately before the commencement of the case".

Unless Cunningham takes some action in violation of the discharge injunction, this Court has no concern with the Debtor's personal rights and claims vis-a-vis that creditor. It may well be that he is entitled to obtain title documentation for the boat and trailer because it is certainly true that Cunningham has no present right to collect the \$1,000 debt from him, but if he is so entitled, he has available to him the courts of the Commonwealth of Virginia to enforce whatever rights he may have.

The Court concludes that the Debtor's dispute with Cunningham is not an intrinsic part of the bankruptcy case itself. The Court further concludes that any rights the Debtor may have against Cunningham to obtain the boat and trailer titles do not "arise" under Chapter 11 but under state contract law, as they may be affected by the bankruptcy discharge of the Debtor's obligation to Cunningham. The Court further concludes that this dispute is not covered by the court's "related to" jurisdiction because its outcome could not "conceivably have any effect on the estate being administered in bankruptcy." *In re Celotex Corp.*, 124 F.3d 619, 625 (4<sup>th</sup> Cir. 1997); *New Horizon of NY LLC v. Jacobs*, 231 F.3d 143, 151 (4<sup>th</sup> Cir. 2000). *See generally, Celotex Corp. v. Edwards*, 514 U.S. 300, 307-08 (1995); 1 Collier on Bankruptcy ¶ 3.01[4][c] at p. 3-32 (Matthew Bender 2004)("It is not surprising to learn that a suit brought by a debtor on a cause of action which was not property of the estate . . . because it was exempt is not related to the bankruptcy case, since it would only benefit the debtor, and not the estate."). Neither the Debtor's bankruptcy trustee or his creditors generally can be affected by whether or not he obtains certificates title to the property in question. Such matter is purely one of Mr. Giles's personal enjoyment of his rights of ownership of property which he has successfully claimed as exempt from his creditors. The situation presented in this case is similar to that considered in the case of *In re Turner*, 724 F.2d 338 (2<sup>nd</sup> Cir. 1983), in which the United States

Court of Appeals for the Second Circuit held that a bankruptcy court had no “related to” jurisdiction in a debtor’s pre-bankruptcy conversion action against her landlord which the debtor had claimed as exempt. The Court noted that any recovery would be paid solely to the debtor and any failure to recover would not affect her exemption claim in the bankruptcy case. Accordingly, there was no jurisdiction in the absence of any “significant connection” between the cause of action and the outcome of the bankruptcy case. 724 F.2d at 341. In a similar vein, in the case of *Tschirn v. Secor Bank*, 123 B.R. 215 (E.D. La. 1991), a debtor’s lender liability claim which had been removed to the bankruptcy court was required to be remanded back to state court when the bankruptcy trustee abandoned the cause of action as an asset of the bankruptcy estate and therefore its resolution would only affect the debtor and not the estate. The United States Court of Appeals for the Seventh Circuit held that a bankruptcy court had no jurisdiction over property which was excluded from the bankruptcy estate in the case of *Matter of McClellan*, 99 F.3d 1420 (7<sup>th</sup> Cir. 1996).

In view of this Court’s determination that it has no jurisdiction of the dispute between Mr. Giles and Cunningham, it sees no purpose in analyzing whether such dispute is a “core” bankruptcy matter within the provisions of 28 U.S.C. § 157(b)(2).

By means of a contemporaneous order the Court will dismiss the Debtor’s Motion to Compel without prejudice to his right to proceed in a Virginia court of competent jurisdiction to assert his claim against Cunningham.

This 15<sup>th</sup> day of December, 2004.

  
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UNITED STATES BANKRUPTCY JUDGE