

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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IN RE:

DIANNA L. McKENZIE WILLIS,  
Debtor.

BK #93-31512-WHB  
Chapter 7

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MEMORANDUM OPINION AND ORDER ON  
TRUSTEE'S OBJECTION TO DEBTOR'S CLAIMED EXEMPTIONS

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The case trustee filed a timely objection to the debtor's claimed exemption of worker's compensation benefits from a claim she is pursuing under the Mississippi Worker's Compensation Act. There is no dispute as to fact. The issue is whether worker's compensation benefits received by a debtor according to the law of another state are exempt in a bankruptcy case filed in Tennessee.

In this case, the debtor, Dianna L. McKenzie Willis, was injured on the job while working at Case International in DeSoto County, Mississippi. Her injury occurred prior to her filing this bankruptcy case on November 1, 1993. Ms. Willis resided in Tennessee at the time she filed her bankruptcy case. She is now pursuing her worker's compensation claim under the Mississippi Worker's Compensation Act. The case trustee's objection is that the debtor cannot claim an exemption of her Mississippi worker's compensation benefits in her Tennessee bankruptcy case because Tennessee does not have an exemption that covers these benefits.

Basically, the controversy in this case stems from two facts. First, Ms. Willis was required to file for worker's compensation in Mississippi because she was injured in Mississippi, hired in Mississippi, and her employment was centered in Mississippi. Compare Tenn. Code Ann. §50-6-

115 (defining the application of the Tennessee Worker's Compensation Act to extraterritorial work activity). Secondly, she is a resident of Tennessee and filed for bankruptcy in Tennessee.

Under Mississippi law, Ms. Willis would be entitled to exemption of her worker's compensation benefits from "all claims of creditors, and from levy, execution, and attachment or other remedy for recovery or collection of a debt." Miss. Code Ann. §71-3-43. However, Tennessee law provides that the exemptions provided in the Tennessee Code are the only exemptions that are available in a Tennessee bankruptcy case. Tenn. Code Ann. §26-2-112. Under the worker's compensation section of the Tennessee Code, worker's compensation benefits are specifically exempted from creditors' claims, but only if the worker's compensation claim was brought under the Tennessee worker's compensation statutes. Tenn. Code Ann. §50-6-223(a). Therefore, Ms. Willis appears to be caught in a situation where she cannot claim an exemption for her worker's compensation benefits, even though Tennessee specifically allows an exemption for worker's compensation benefits awarded under Tennessee law and Mississippi specifically allows an exemption for worker's compensation benefits awarded under Mississippi law.

However, the Court concludes that §50-6-223 is not the only Tennessee exemption that will cover Ms. Willis' worker's compensation benefits. The debtor also relies upon Tennessee Code Annotated §26-2-111(1)(C), wherein the right to recover "[a] disability, illness, or unemployment benefit, or a pension that vests as a result of disability" is exempt from creditors while in the hands of a permanent resident of Tennessee. This exemption is not limited to disability benefits received under Tennessee law. Worker's compensation benefits are disability benefits and are covered by this section. This conclusion is supported by the schedule for worker's compensation provided in the Tennessee Code. The compensation schedule bases worker's compensation benefits on a

determination of whether the claimant has a temporary total disability, temporary partial disability, permanent partial disability or a permanent total disability. Tenn. Code Ann. §50-6-207. Mississippi law also indicates that its worker's compensation benefits are to compensate for disability. Miss. Code Ann. §71-3-17. Hence, worker's compensation benefits payable to a Tennessee resident are exempt under Tennessee Code Annotated §26-2-111(1)(C) and the exemption is not limited to a specific amount.

In addition, further support for the above conclusion can be found by comparing Tennessee Code Annotated §26-2-111(1)(C) and 11 U.S.C. §522(d)(10)(C). These two Code sections are almost identical. While the latter Code section is not controlling in Tennessee, as a result of Tennessee Code Annotated §26-2-112, it is interesting to note interpretations of it in regard to worker's compensation benefits. This United States Code section was discussed in a case in the United States Bankruptcy Court for the Northern District of Georgia. In re Cain, 91 B.R. 182 (Bankr. N.D. Ga. 1988). In Cain, Judge Murphy found that worker's compensation benefits were disability benefits and were, therefore, entirely exempt under 11 U.S.C. §522(d)(10)(C). Cain, 91 B.R. at 183. Judge Murphy considered the legislative history and the fact that these benefits are exempted from the Internal Revenue Code's definition of gross income. Cain, 91 B.R. at 183. Also, the United States Bankruptcy Court in Maine reached the same conclusion. In re LaBelle, 18 B.R. 169 (Bankr. D. Me. 1982). In LaBelle, the Court recited part of the legislative history of §522(d)(10)(C). LaBelle, 18 B.R. at 170. The legislative history indicates that this section exempts benefits that are strictly "akin to future earnings of the debtor." LaBelle, 18 B.R. at 170. The Maine Court found that worker's compensation benefits fit this description because the benefits are awarded when a person's future earning capacity is reduced or lost completely. LaBelle, 18 B.R. at 171.

Furthermore, NORTON BANKRUPTCY LAW AND PRACTICE states that worker's compensation benefits are exempt under §522(d)(10)(C). NORTON BANKRUPTCY LAW & PRACTICE 2d §46:17 (1994).

Another possible approach to the issue in the present case is the analysis used by the Tennessee Supreme Court in a previous case. Poore v. Bowlin, 150 Tenn. 412 (1924). However, use of this analysis in the present case would require imaginative reasoning. In Poore, the defendant's husband was killed in a coal mine and she was awarded worker's compensation benefits as his widow. A creditor brought suit seeking to reach the benefits. Ms. Bowlin was a nonresident. The plaintiff relied on a line of cases indicating that nonresidents were not covered by the Tennessee exemption statutes. The Court in Poore found that the compensation benefits arose out of the contract made between the deceased and his employer and not directly from the law. A part of the contract was that the benefits would be free from creditors' claims. Therefore, the Court held that the benefits were not an exemption given by the law, but were contract benefits. These benefits were lawfully provided for in the contract and it was immaterial where the defendant resided. There are insufficient facts before the Court to draw such a conclusion in the present case and such a strained analysis is unnecessary in light of current Tennessee statutes. The Court mentions the Poore analysis as an illustration of the liberal allowance given by the Tennessee Supreme Court to exemption of worker's compensation benefits. Nevertheless, this Court concludes that the more solid and straightforward resolution of the current issue is found in Tennessee Code Annotated §26-2-111(1)(C).

**IT IS THEREFORE ORDERED** that the Trustee's objection is overruled. The worker's compensation benefits at issue in this case are exempt, in the entirety, under Tennessee Code Annotated §26-2-111(1)(C).

**SO ORDERED** this 14<sup>th</sup> day of February, 1994.

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WILLIAM HOUSTON BROWN  
UNITED STATES BANKRUPTCY JUDGE

cc:

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(Published)