

Insights

Seventh Circuit Court of Appeals Reaffirms the Necessity of Adhering to the Bankruptcy Code Text

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On July 6, 2020, the United States Court of Appeals for the Seventh Circuit (which covers appeals from federal courts in Indiana, Illinois and Wisconsin) handed down the third in a series of decisions related to Chicago debtors seeking chapter 13 bankruptcy protection in order to avoid or defer paying parking and other vehicle fines. The key take away from the decision is that a bankruptcy court may confirm a chapter 13 repayment plan that holds property in the estate, but must make a finding of good, case-specific reasons for doing so. The decision emphasized the need for confirmed chapter 13 bankruptcy plans to comply with the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*

The key Bankruptcy Code provision in the case was 11 U.S.C. §1327(b), which states:

Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

Notwithstanding this, the U.S. Bankruptcy Court for the Northern District of Illinois adopted a form chapter 13 plan confirmation order that allows debtors merely to check a box so that they can retain all property in the estate, juxtaposed to §1327(b)'s presumption.

For Chicago parking ticket debtors, keeping their cars in the chapter 13 bankruptcy estate can be a boon because the automatic stay in bankruptcy, 11 U.S.C. §362, prevents the City from using collection devices like towing or booting. If vehicles were vested in the debtors at confirmation of their chapter 13 plans as commanded by §1327(b), the City could proceed with towing or booting against the vehicle.

The Seventh Circuit Court of Appeals explained that debtors could not avoid the plain language of the Bankruptcy Code in order to circumvent their responsibilities as vehicle owners. Bankruptcy courts can only confirm a chapter 13 plan that retains property in the estate after finding good, case-specific reasons for that action. As the Court ruled, “[d]ebtors may need cars but also must pay the cost of their maintenance—insurance, repairs, gasoline, and parking, among other things. Using the bankruptcy process to enable debtors to operate cars while avoiding the costs that others must pay is not appropriate.” Put another way, the Seventh Circuit emphasized that bankruptcy courts and parties to chapter 13 bankruptcy cases generally must adhere to the plain language of 11 U.S.C. §1327(b) and the Bankruptcy Code.

Takeaway: As noted above, a bankruptcy court may confirm a chapter 13 repayment plan that holds property in the estate instead of vesting it in the debtor as required by 11 U.S.C. §1327(b), but in order to do so, the bankruptcy court must make a finding of good, case-specific reasons from varying from §1327(b).

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