Michigan Law Review

Volume 39 | Issue 4

1941

BANKRUPTCY - EFFECT OF DISCHARGE - SUSPENSION OF DRIVER'S LICENSE FOR NON-PAYMENT OF JUDGMENT AS CONFLICTING WITH THE BANKRUPTCY ACT

Walter Muller
University of Michigan Law School

BANKRUPTCY — EFFECT OF DISCHARGE — SUSPENSION OF DRIVER'S LICENSE FOR NON-PAYMENT OF JUDGMENT AS CONFLICTING WITH THE BANKRUPTCY ACT — Under section 94-b of the New York Vehicle and Traffic Law,[1] as amended in 1936 and 1939, if a judgment entered against a driver

[1] N. Y. Vehicle and Traffic Law, (McKinney, Supp. 1940), § 94-b.

for damages for injury to person or property remains unpaid for fifteen days, the clerk of the court where the judgment was entered must (but only upon written demand of the judgment creditor)[2] forward a copy thereof to the commissioner of motor vehicles, whose duty it then becomes to suspend the driving license of such judgment debtor; further, section 94-c provides (a) that such suspension shall continue for such part of three years as the judgment remains unsatisfied, and a discharge in bankruptcy is explicitly[3] stated not to be such satisfaction as is required under the statute; provided, however, that the judgment creditor may give his consent that the debtor be allowed the return of his license for six months and thereafter until the consent be withdrawn,[4] and (b) in any event, proof of future ability to respond in damages must be shown before the license will ever be returned. Plaintiff, a judgment debtor who had since been adjudicated bankrupt, brought an action to enjoin the commissioner from suspending his chauffeur's license. *Held*, in dismissing the complaint, the statute is not violative of the Fourteenth Amendment[5] nor does it impair the effect of a discharge under section 17 of the Bankruptcy Act. *Reitz v. Mealey*, (D. C. N. Y. 1940) 34 F. Supp. 532.

Before the 1936 and 1939 amendments were added, two earlier cases[6] in which the constitutionality of the statute was questioned were in conflict. Though the court in the principal case treated the statute as it existed prior to

[2] The matter contained in parentheses is the substance of the 1939 amendment.

[3] Other states have statutes similar to the one here involved, except that no mention is made in them as to whether a discharge in bankruptcy is deemed to be "satisfaction" under the statute. In Ellis v. Rudy, 171 Md. 280, 189 A. 281 (1937), the court said that if the statute were interpreted to mean what the New York statute expressly states, it would be unconstitutional. Thus, in order to find the statute constitutional, it was interpreted to mean that a discharge in bankruptcy would be satisfaction of the judgment, entitling the judgment debtor to the return of his license. But in Rineer v. Boardman, 45 Dauphin County (Pa.) 78 (1938), the court interpreted the statute to mean that a discharge would not be sufficient satisfaction, but was nevertheless a valid one.

[4] This provision is the substance of the 1936 amendment. It is clear that the statute's present *form*, because of these two amendments, stands solely as an aid to the creditors. Its practical working depends on the judgment creditor's whim and initiative. Whether the substance of the statute is solely an aid to creditors remains yet to be considered.

[5] Such legislation as this has been held a valid exercise of the police power of the state. See 125 A. L. R. 1459 at 1461 (1940).

[6] In re Perkins, (D. C. N. Y. 1933) 3 F. Supp. 697, and Munz v. Hartnett, (D. C. N. Y. 1933) 6 F. Supp. 158. The court in the Munz case found the statute valid as an exercise of the state's police power, and said, as in Rineer v. Boardman, 45 Dauphin County (Pa.) 78 (1938), that even if the explicit clause to the effect that discharge was not satisfaction had not been inserted, yet the statute would have been thus interpreted, since discharge is never a satisfaction, but only a bar to a civil remedy. But that line of argument ignores the basic purpose of the Bankruptcy Act, to aid debtors. Whether or not the discharge is labelled satisfaction should not be determining in deciding whether the state may employ sanctions to undo that which the Bankruptcy Act has tried to do. The Perkins case took the view that the statute denied to the bankrupt the full effect of the discharge in bankruptcy. See also 19 CORN. L. Q. 278 (1934); 47 HARV. L. REV. 870 (1934); 43 YALE L. J. 344 (1933).

1936, finding it unnecessary to decide upon the constitutionality of the act as amended,[7] this note will view the statute in its entirety. Section 17[8] of the Bankruptcy Act discharges a debtor from all of his provable debts, with certain named exceptions. The purpose of the act, as frequently stated, is to relieve the honest debtor from the weight of oppressive indebtedness in order to enable him to begin afresh, and restore him to business activities in the interest of his family and the general public. Any state statute which impairs this function to such an extent as to defeat the purposes of the act is unconstitutional. But the conflicting statute will be sustained if (a) it is a valid exercise of the state police power,[9] and (b) if the public good is its primary object, the benefit to the creditor and conflict with the act being merely incidental.[10] There are but two possible grounds on which the New York statute can depend for support. The first is that drivers will be more cautious and accidents will thereby be prevented, when it is impressed upon drivers that bankruptcy will not release them from the penalties of their carelessness. The court in the principal case, in adopting this reasoning to find some possible use to the public in this statute, says, "it is not unreasonable to say that among careless drivers, those are apt to be more careless who have no financial interest at stake." [11] But the probabilities that any driver will, even subconsciously, be more reckless than otherwise because he is thinking in terms of a bankruptcy discharge which will be available to free him from a debt incurred as a result of his negligent driving appear so remote as to convince the writer that it is the rationalization of a court which wishes to sustain a statute. The second possible ground on which the necessary public interest might be found is that it is in the public interest to bar from the highways those careless drivers who are unable to pay for the damage they do. Acting as a sanction, it is intended to compel payment for the accident that has already occurred and to prevent further accidents that will not be paid for. Thus, it is not careless driving which is outlawed, but only such careless driving which, resulting in damage to someone, will not be paid for. The statute's objective is obviously not to prevent careless driving, but to assure payment to those judgment creditors who are injured in some way. Courts which have had this statute before them, realizing that the commissioner of motor vehicles is in effect "a disguised collection agent for the judgment creditor," [12] have sought to find some primary benefit to the public therein, with the windfall to the creditor being treated as merely incidental, or even coincidental. It seems, upon close analysis, that the primary benefit consists wholly in assuring that windfall to the creditor. Thus, the underlying question on which the statute's validity depends is not whether the benefit to the creditor is its primary purpose or inci-

[7] The majority held that even if the amendments were unconstitutional, the original part of the statute would support the instant holding; thus, the constitutionality of the amendments was not determined. The dissent felt that the statute with the amendments must stand or fall together.

[8] 52 Stat. L. 851, § 17 (1938), 11 U. S. C. (Supp. 1940), § 35.

[9] See 43 YALE L. J. 344 (1933).

[10] Were the avowed purpose of the statute merely to aid the creditor, without bearing any semblance to public interest therein, it would clearly be bad.

[11] Principal case, 34 F. Supp. 532 at 534.

[12] Id. at 537.

dental result, but whether, acknowledging that the benefit to the creditor is the purpose-in-chief, that is sufficiently in the public interest to justify it. Since the burden of caring for an injured person may fall upon public shoulders, and since the public is interested in preventing economic destruction and waste, it must be admitted that there is some not too remote public interest in assuring payment to creditors. But to uphold this statute [13] on the above analysis would be to allow the state's views as to what is desirable policy to prevail over those of the federal government, where the latter are supreme. The state policy says the public will benefit by insuring remuneration to creditors; federal policy has seen fit to find the public good in rehabilitating the debtor, at the expense of the creditor. It is submitted that the latter should prevail.

Walter Muller

[13] A recent decision upholds the view taken in the principal case. In re Locker, (D. C. N. Y. 1939) 30 F. Supp. 642.