

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: )  
 )  
JAMES & DEANA RUFFETT, ) CASE NO. BK01-42320  
 )  
Debtor(s). ) CH. 7

MEMORANDUM

Hearing was held in Lincoln, Nebraska, on April 3, 2002, on the Chapter 7 Trustee's Notice of Intent to Claim Certain Assets (Fil. #6) and Resistance by the Debtors (Fil. #8). Sam Turco, Jr., appeared for the debtor, and Rick Lange appeared for the Chapter 7 Trustee. This memorandum contains findings of fact and conclusions of law required by Fed. R. Bankr. P. 7052 and Fed. R. Civ. P. 52. This is a core proceeding as defined by 28 U.S.C. § 157(b)(2)(A) and (B).

The Trustee's motion is denied.

The Chapter 7 Trustee seeks to administer for distribution to creditors the right of Mrs. Ruffett to a percentage of her former husband's military pension. Mrs. Ruffett was awarded twenty percent of the military retirement benefits as part of the property settlement in the 1989 dissolution of her previous marriage. Her portion of the benefit is a monthly payment of \$382.63. The debtors assert that such a benefit is not property of the bankruptcy estate.

The Bankruptcy Court in the Western District of Missouri addressed this question in In re Satterwhite, 271 B.R. 378 (Bankr. W.D. Mo. 2002). In Satterwhite, the Chapter 13 Trustee objected to the debtor's claim of exemption for a military pension awarded in a marital dissolution. The court found that the Uniformed Services Former Spouses' Protection Act, 10 U.S.C. § 1408, gave the debtor a proprietary, inalienable interest in a portion of her former husband's military pension benefits, which was excluded from her bankruptcy estate pursuant to Patterson v. Shumate, 504 U.S. 753 (1992).

In the alternative, the Satterwhite court found that the pension payments have value only when they become due each month, so the right to future pension payments was not an asset of the estate.

Mrs. Ruffett's right to military retirement benefits appears to be similar to Ms. Satterwhite's. Based on the reasoning of the Satterwhite decision, I find that Mrs. Ruffett's portion of her former spouse's military pension is not property of the bankruptcy estate and cannot be claimed by the Trustee for distribution to unsecured creditors.

Separate Order to be filed.

DATED: April 15, 2002

BY THE COURT:

/s/Timothy J. Mahoney

Timothy J. Mahoney

Chief Judge

Notice given by the Court to:

\*Rick Lange

Sam Turco, Jr.

United States Trustee

Movant (\*) is responsible for giving notice of this order to all other parties not listed above if required by rule or statute.

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ORDER

Hearing was held in Lincoln, Nebraska, on April 3, 2002, on the Chapter 7 Trustee's Notice of Intent to Claim Certain Assets (Fil. #6) and Resistance by the Debtors (Fil. #8). Sam Turco, Jr., appeared for the debtor, and Rick Lange appeared for the Chapter 7 Trustee.

IT IS ORDERED the Chapter 7 Trustee's Notice of Intent to Claim Certain Assets (Fil. #6) is denied. See Memorandum entered this date.

DATED: April 15, 2002

BY THE COURT:  
/s/Timothy J. Mahoney  
Timothy J. Mahoney  
Chief Judge

Notice given by the Court to:

\*Rick Lange  
Sam Turco, Jr.  
United States Trustee

Movant (\*) is responsible for giving notice of this order to all other parties not listed above if required by rule or statute.