

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

IN RE:

STEVEN W. PEAHEY  
GAYLA MARIE PEAHEY

Debtor(s).

In Proceedings  
Under Chapter 7

Case No. 96-40664

OPINION

The Chapter 7 trustee has objected to the debtors' claim of exemption for certain items of jewelry under 735 ILCS 5/12-1001(a), the Illinois provision granting an exemption for "necessary wearing apparel" of a debtor. See 735 ILCS 5/12-1001(a). The trustee contends that jewelry does not constitute "necessary wearing apparel" within meaning of § 12-1001(a) and requests that the debtors' exemption be disallowed and the jewelry be declared nonexempt.

The Court finds it unnecessary in this case to reach the issue of whether jewelry may be exempted as "necessary wearing apparel" under 735 ILCS 5/12-1001(a). In their Schedule C, the debtors claimed the jewelry in question as exempt under both the "necessary wearing apparel" provision of § 12-1001(a) and the so-called "wild card" provision of § 12-1001(b). Section 12-1001(b), the "wild card" provision, grants an exemption in a debtor's "equity interest, not to exceed \$2,000, in any other [personal] property." 735 ILCS 5/12-1001(b). The total amount of the wild card exemption used by the debtors, not including the subject jewelry, is \$956. The

value of the debtors' claimed exemption for jewelry is \$300. Accordingly, the debtors may exempt the jewelry in question under the "wild card" provision whether or not the jewelry constitutes "necessary wearing apparel" for purposes of § 12-1001(a).

Under the facts of this case, there is no "case in controversy" concerning the debtors' claimed exemption in jewelry, and the Court declines to render an advisory opinion on whether such jewelry constitutes "necessary wearing apparel" for purposes of § 12-1001(a).

For the reasons stated, the Court finds that the trustee's objection to the debtors' claim of exemption for jewelry should be overruled.

SEE WRITTEN ORDER.

ENTERED: October 24, 1996

/s/ KENNETH J. MEYERS  
U.S. BANKRUPTCY JUDGE