

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

IN RE:

GORDON SCOTT PICKETT

Debtor(s).

In Proceedings
Under Chapter 7

Case No. 96-41121

ORDER

This matter is before the Court on a motion to reopen filed by Stacie Pickett, former spouse and creditor of the debtor, Gordon Pickett. The movant seeks to reopen the debtor's bankruptcy case to obtain a determination that an obligation arising from the parties' judgment of dissolution of marriage is nondischargeable as support under 11 U.S.C. § 523(a)(5).¹

Section 350(b) provides for the reopening of a bankruptcy case "to administer assets, to accord relief to the debtor, or for other cause." 11 U.S.C. § 305(b). The reopening of a closed case is a matter within the sound discretion of the bankruptcy court. See In re Smith, 125 B.R. 630, 631 (Bankr. E.D. Okla. 1991).

Unlike actions under § 523(a)(2), (4), (6), and (15), which come within the exclusive jurisdiction of the bankruptcy court, actions to determine the dischargeability of debt under § 523(a)(5) may be heard by either the bankruptcy court or a state

¹ Section 523(a) excepts from discharge "any debt --

(5) to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a . . . divorce decree or other order of a court of record . . .

11 U.S.C. § 523(a)(5).

court of competent jurisdiction. 4 Collier on Bankruptcy, ¶ 523.03 at 523-17 (15th ed. rev. 1997); see In re Crawford, 183 B.R. 103, 105 (Bankr. W.D. Va. 1995). Determination of whether a particular obligation is "in the nature of" support or maintenance so as to be nondischargeable under § 523(a)(5) necessarily requires an interpretation of the judgment of dissolution rendered by the state court. The state court is in an infinitely better position than the bankruptcy court to interpret its judgment and apply the relevant law of the state to determine the nature of the obligation and, therefore, the dischargeability of the debt. Smith, at 631. Here, the apparent wish of the creditor spouse to have this determination made by the bankruptcy court rather than by the state court is not sufficient grounds to find "cause" to reopen the debtor's bankruptcy case under § 350(b). See id. Accordingly, the movant's motion to reopen is DENIED.

ENTERED: October 16, 1997

/s/ KENNETH J. MEYERS
UNITED STATES BANKRUPTCY JUDGE