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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re:)	
)	
DARRIN LENALD COOPER,)	No. 20-11937
)	
Debtor.)	
)	

TRANSCRIPT OF THE DIGITALLY-RECORDED RULING
BY THE HONORABLE MARC L. BARRECA
MAY 10, 2023

Transcribed by: Robyn Oleson Fiedler

1 DIGITALLY RECORDED IN SEATTLE, WASHINGTON

2 May 10, 2023

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5 MS. EDMISTON: Rachel Edmiston.

6 MR. FORSYTH: And Kyle Forsyth for the Social
7 Security Administration. And also on the meeting today is
8 my client, Michael Carey, an attorney with the Social
9 Security Administration.

10 THE COURT: Thank you. All right. So this is the
11 time and place I've set for giving my ruling on the motion
12 for an order to appear and show cause why creditor, the
13 Social Security Administration, should not be held in
14 contempt for violation of the automatic stay, 11 USC Section
15 362. Docket 22. However, in the motion, the debtor
16 actually seeks an order holding the Social Security
17 Administration in contempt for violating the discharge
18 injunction provisions of 11 USC Section 524, so I will
19 construe it accordingly.

20 The Social Security Administration responded --
21 hereafter the "Agency" -- at docket 25.

22 For the following reasons, I deny the motion.

23 Jurisdiction. I have jurisdiction over the
24 parties and subject matter pursuant to 28 USC Sections 157
25 and 1334.



1 Procedural background. On July 21, 2020, the
2 debtor filed a voluntary Chapter 7 petition. Docket 1.

3 On August 19, 2020, the Chapter 7 Trustee entered
4 a report of no distribution on the docket.

5 On October 21, 2020, I issued the order of
6 discharge. Docket 17.

7 On October 30, 2020, the case was closed.

8 On February 13, 2023, the debtor filed a motion to
9 reopen his case, which I granted on February 14, 2023.
10 Docket 19 and 21.

11 On February 15, 2023, the debtor filed the present
12 motion.

13 On March 15, 2023, the Agency responded to
14 debtor's motion to show cause. Docket 25.

15 On March 17, 2023, debtor replied. Docket 27.

16 On March 22, 2023, I held a hearing on the motion,
17 heard oral arguments, and ordered supplemental briefing from
18 the parties.

19 On April 5, 2023, the debtor filed supplemental
20 Exhibit B. Docket 30.

21 On April 14, 2023, the Agency filed its
22 supplemental response. Docket 32.

23 Background. Undisputed facts. There's no
24 disputes of fact which are material. In 2017, the debtor
25 applied for Social Security Disability Insurance benefits -

1 hereafter "DIB" -- and Social Security Insurance --
2 hereafter SSI. Holmes declaration, Docket 26, Exhibit 1.

3 On May 10, 2019, the Agency sent the debtor a
4 notice of award informing him that he was entitled to
5 retroactive payment of DIB beginning May 2016. The award
6 notice stated that the debtor's DIB for May 2016 through
7 April 2019 would be withheld pending an Agency determination
8 of whether those benefits must be reduced due to the
9 debtor's receipt of Social Security -- SSI. (

10 The notice also informed the debtor that if he
11 received state worker's compensation benefits, the Agency
12 may have to reduce his DIB entitlement. Holmes declaration,
13 Docket 26, Exhibit 4.

14 In August 2019, the Agency notified the debtor
15 that as he did not receive any SSI from May 2016 to April
16 2019, it would refund all of the withheld funds and send the
17 debtor a check for \$67,355.50. Holmes declaration at Docket
18 26, Exhibit 4.

19 In December 2020, the debtor informed the Agency
20 that he had been receiving worker's compensation benefits,
21 provided notice of his bankruptcy discharge. Holmes
22 declaration at Docket 26, Exhibit 1.

23 In October, 2022, the Agency notified the debtor
24 that it had overpaid his DIB by \$73,112.90. The Agency
25 explained that the debtor's DIB payments should have been

1 reduced to account for his receipt of state worker's
2 compensation payments for the period during which he was
3 entitled to DIB. The Agency informed the debtor that
4 because he had received the DIB overpayment, he could either
5 repay the \$73,112.90 within 30 days, or the overpayment
6 would be prorated and deducted from his ongoing DIB
7 entitlement payments beginning in January 2023.

8 The notification indicated that the Agency's
9 overpayment came from the DIB program, and the Agency's
10 recoupment would be deducted from the same DIB program
11 benefits. Holmes declaration, Docket 26 at Exhibit 7.

12 Analysis. Civil Contempt. Under the Supreme
13 Court holding in Taggart, a bankruptcy court may only impose
14 a civil contempt sanctions for violating the discharge
15 injunction "if there is no fair ground of doubt as to
16 whether the the order barred the creditor's conduct." Put
17 another way, a court may impose several civil contempt
18 sanctions, "when there is no objectively reasonable basis
19 for concluding that the creditor's conduct might be lawful
20 under the discharge order." Taggart vs. Lorenzen, 139 S.Ct.
21 1795, 1799 to 1801 (2019).

22 Recoupment. Recoupment is an equitable doctrine
23 that, although not explicitly addressed in the bankruptcy
24 code, permits one party to recover an obligation from a
25 second party because the second party owes a countervailing

1 obligation to the first party, so long as both obligations
2 arise out of the same, "transaction or occurrence". In re
3 Gardens Reg'l Hospital & Medical Center, Inc., 975 F.3d 926,
4 934 (9th Cir. 2020).

5 The 9th Circuit applies a "logical relationship"
6 test when determining whether countervailing obligations
7 arise from the same transaction. *Id.* When applying the
8 logical relationship standard, the 9th Circuit gives the
9 word "transactions" a flexible meaning. *Id.*

10 In the 9th Circuit, recoupment is not limited to
11 contract rights, but may be applied to social welfare
12 statutes and other non-contractual entitlements. In re
13 Williamson, 2018 WestLaw 4926430, (9th Circuit BAP 2018),
14 citing *In re Madigan* 270 B.R. 749 (9th Cir. BAP 2001).

15 Recoupment is not subject to the limitations of
16 the automatic stay under Section 362 or 553, nor is it
17 prohibited by the discharge injunction under Section 524.
18 In re Gardens Reg'l Hospital at 933 to 34, *In re Madigan*,
19 270 B.R. 749, 754.

20 The debtor argues that the Agency should be held
21 in civil contempt for violating the bankruptcy discharge
22 under 11 USC Section 524(a)(2) for recouping the debtor's
23 receipt of a prepetition DIB overpayment from his
24 post-bankruptcy DIB payments. The Agency argues that the
25 discharge injunction does not prevent it from recouping the

1 prepetition DIB overpayment from the debtor's ongoing
2 post-petition DIB payments.

3 In asserting that the debtor submitted an
4 inaccurate application to the Agency, the Agency also
5 acknowledges its own oversight in making the overpayment.
6 However, the Agency argues that the debtor's current
7 entitlement to DIB is determined under a statutory scheme
8 that accounts for his entire work history and earnings,
9 including both pre- and post-petition periods. The Agency
10 further argues that the statutory scheme inextricably links
11 the debtor's receipt of the prepetition overpayment to the
12 amount of his ongoing DIB entitlement, making the two
13 logically related and of the same transaction.

14 The debtor cites *In re Anduin* (phonetic), 2016
15 WestLaw 1395378, as an analogous case in which the Court
16 determined that a prepetition overpayment of Social Security
17 Disability Insurance, SSDI, may not be recouped against the
18 payment of post-petition SSDI. To the extent that the facts
19 in *In re Anduin* actually involve the same basis for
20 entitlement to both the prepetition SSDI overpayment and the
21 ongoing post-petition entitlement to SSDI, I disagree with
22 the Court's conclusion.

23 As indicated in *In re Madigan*, 270 B.R. 749,
24 prepetition overpayments of entitlement may be recouped
25 against post-bankruptcy payments made under the same basis

1 for entitlement. In Madigan, the Court denied recoupment
2 because the debtor's prepetition entitlement overpayment and
3 entitlement to post-petition payments, even if arising from
4 the same injury, were made as a result of two separate
5 disability periods, two different claims, and separated by a
6 two-year period of employment.

7 In contrast to the facts in Madigan, here the
8 debtor's prepetition overpayment occurred regarding the same
9 prepetition DIB entitlement as the post-bankruptcy DIB
10 entitlement payments the Agency seeks to recoup against.
11 This is a very strong logical relationship, which under 9th
12 Circuit law makes the prepetition DIB overpayment and the
13 ongoing DIB entitlement payments part of the "same
14 transaction", and therefore, recoupment applies.

15 Conclusion. As the debtor's prepetition DIB
16 overpayment occurred regarding the exact same entitlement
17 program and flows from the same basis for entitlement as his
18 ongoing post-bankruptcy DIB payments, the matters are
19 logically related and, therefore, subject to recoupment
20 under the 9th Circuit "same transaction" test. It would be
21 inequitable for the debtor to receive all further payments
22 under the DIB program without reduction for the prepetition
23 DIB overpayment.

24 The Agency's recoupment of the debtor's
25 prepetition overpayment is neither a violation of the



1 discharge order or the automatic stay, and therefore, not
2 subject to civil contempt sanctions. Therefore, the motion
3 is denied.

4 Counsel for the Agency should submit an
5 appropriate order conforming to this ruling and referencing
6 the ruling, rather than trying to restate the ruling in the
7 form of the order.

8 I will add, as an aside, I think Mr. Forsyth, you
9 indicated that there is an ability, within the DIB program,
10 even where there's been an overpayment, to work out an
11 adjusted schedule for over what period of time and in what
12 amounts that recoupment is exercised from ongoing payments.
13 I would hope that the Government is fair in realizing the
14 impact on the debtor in dealing with the debtor further on
15 the amount and timing of that recoupment.

16 All right. Any questions for the form of order?

17 MR. FORSYTH: No, Your Honor. I don't think so.

18 THE COURT: All right. I will look for that
19 order. Thank you.

20 (Court was adjourned.)

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CERTIFICATE

ROBYN OLESON FIEDLER certifies that:

The foregoing pages represent a complete transcript of the digitally-recorded proceedings.

These pages constitute the original or a copy of the original transcript of the proceedings to the best of my ability.

Signed and dated this 7th day of June, 2023.

by |s| Robyn Oleson Fiedler
ROBYN OLESON FIEDLER

