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SCOTUS Holds That Bankruptcy Courts Have Jurisdiction In Stern Claims

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September 2, 2015 - *In Wellness International Network v. Sharif*, the Supreme Court recently weighed in again on the scope of a bankruptcy court's jurisdiction, holding in a 6-3 opinion that Article III authorizes bankruptcy judges to exercise judicial power over *Stern* claims (claims that challenge a bankruptcy court's power to enter final judgment on a case) when the parties consent to such adjudication.

As previously reported, the *Wellness* case arises out a complaint filed in bankruptcy court by Wellness International Network against Sharif, a chapter 7 debtor. Wellness claimed that Sharif administered a trust fund that was actually his personal property and part of his bankruptcy estate. Later, the bankruptcy court found that Sharif violated the court's discovery order, and subsequently entered a default judgment against him, treating the property from the trust fund as part of his bankruptcy estate. Upon appeal to the Seventh Circuit, the court ruled that, following *Stern*, the Bankruptcy Court did not have constitutional authority to enter final judgment and the parties could not consent to waive jurisdictional issues. The Supreme Court granted certiorari and decided the following issue:

"[W]hether Article III allows bankruptcy judges to adjudicate [Stern] claims with the parties' consent." *Wellness Int'l Network v. Sharif*, No. 13-935, slip op., at 2 (2015).

In *Stern*, the Court decided that Article III disallows bankruptcy courts from implementing final judgments on claims that "seek only to 'augment' the bankruptcy estate . . ." *Wellness*, slip op. at 2. That standard now has an exception as held in *Wellness*, which permits bankruptcy courts to implement final judgments on claims, even if they are only augmenting a bankruptcy estate, as long as the parties consented to adjudication in bankruptcy court. The Court noted, "[A]llowing Article I adjudicators to decide claims submitted to them by consent does not offend the separation of powers so long as Article III courts retain supervisory authority over the process," which was the case in *Wellness*. *Wellness*, slip op. at 12.

Furthermore, as mentioned by the Court, such consent need not be express. However, it must be knowing and voluntary. That is, "the key inquiry is whether 'the litigant or counsel was made aware of the need for consent and the right to refuse it, and still voluntarily appeared to try the case' before the non-Article III adjudicator," such as a bankruptcy court, which is an Article I adjudicator. *Wellness*, slip op. at 19 (quoting *Roell v. Withrow*, 538 U.S. 580, 590 (2003)).

Thus, in holding that Article III permits bankruptcy courts to decide *Stern* claims to which the litigants consented, the Court remanded the case to the Seventh Circuit to decide whether Sharif's actions had the requisite "knowing and voluntary consent" to litigate the case in bankruptcy court. Chief Justice Roberts—the author of the *Stern* decision limiting bankruptcy court jurisdiction—wrote a 20-page dissent criticizing the majority decision as establishing precedent to allow Congress to strip the judiciary of other powers.

The Impact of *Wellness*

After *Stern*, bankruptcy courts could not enter a final judgment on a case that could "exist without any bankruptcy proceeding." However, as the Court in *Wellness* noted, that ruling hinged on the fact that a litigant in the case "did not truly consent to" adjudication in bankruptcy court. Thus, what *Stern* decided was that non-consent is a bar to the bankruptcy court's entering a final judgment—it did not decide the inverse situation, whether consent allows the court to enter a final judgment. *Wellness* answers this latter question, confirming that consent—both express and implied—are sufficient for the bankruptcy court to enter a final judgment on the case. That is, while *Stern* was premised on non-consent to adjudication in a bankruptcy court as a "constitutional bar" on a bankruptcy court's ability to hear the case, *Wellness* was premised on consent to adjudication in bankruptcy court as authorizing the court to exercise judicial power over the case and waiving the litigants' right to litigate in an Article III court. What is left unclear, however, is what exactly amounts to "consent," but as this case gets remanded to the Seventh Circuit to determine whether Sharif consented to adjudication in bankruptcy court, and as future courts provide their interpretations on the scope of consent, *Wellness*'s implications will become clearer.

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