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Bankruptcy: City's Vehicular Fines are "Administrative Expenses" Entitled to Priority

In re Steenes, No. 17-3630 (7th Cir. Nov. 12, 2019)

Reversing the bankruptcy and district courts, the Seventh Circuit holds that traffic fines incurred by Chapter 13 filers are necessary to allow continued operation of their vehicles and are administrative expenses of the estate.

In March 2019, the Seventh Circuit, in *In re Steenes*, 918 F.3d 554 (7th Cir. 2019) (*Steenes I*), held that the confirmation of a payment plan under Chapter 13 of the Bankruptcy Code causes the debtor's assets, including automobiles, to revert to the debtor's personal ownership unless the judge has made a specific contrary finding. The *Steenes I* decision did not, according to plaintiffs Steenes and Dudley answer an additional question—whether automotive fines incurred by estates during confirmed Chapter 13 payment plans should be treated as administrative expenses and entitled to priority payment.

The issue arose because, after bankruptcy judges confirmed their Chapter 13 payment plans, Steenes and Dudley incurred fines for running red lights, illegal parking, and similar offenses. They refused to pay, arguing that the confirmed plans did not require payment of fines (as opposed to other expenses). Chicago asked the bankruptcy and district judges to treat the fines as administrative expenses—entitled to priority payment--as long as the vehicles remained assets of the estates. But the bankruptcy and district judges ruled that the fines are not administrative expenses, principally because paying them does not promote the debtors' interests. Unless payment is beneficial to the debtor, the judges concluded, an expense is not properly classified as "administrative."

The Seventh Circuit reversed. The earlier *Steenes I* decision which confirmed that the bankruptcy estates were entitled to retain the autos, needed to enable the debtors to earn funds promised to creditors under the Chapter 13 plan, did not simultaneously allow them to avoid paying the costs of operating vehicles. The language on which the bankruptcy and district judges relied (11 U.S.C. §503(b)(1)(A)), says that administrative expenses include "the actual, necessary costs and expenses of preserving the estate." Paying fines did not "preserve" the estate, they reasoned, because the fining jurisdiction could not seize the vehicles even if the fines remained unpaid.

The Circuit saw things differently: "[O]n that view no involuntary debt would be an administrative expense, because the automatic stay always could be used to protect the estate. Only a debt that the estate incurred voluntarily would satisfy the statute." It looked to *Reading Co. v. Brown*, 391 U.S. 471 (1968), where a bankruptcy debtor's employee started a fire that caused damage to neighboring owners, who filed tort claims. The trustee attempted to avoid those liabilities, arguing that they were not voluntarily incurred to preserve the assets of the estate. But the Supreme Court held that claims involuntarily derived from torts committed during a bankruptcy must be treated the same as debts voluntarily incurred. Applying the logic of *Reading*, the Circuit concluded:

> What is true of involuntary debts for torts is equally true of involuntary debts amassed while operating a car. . . . [M]aintaining an automobile is necessary to the success of a Chapter 13 bankruptcy. A debtor who failed to pay for insurance or gasoline could not continue using the car to commute to work. . . [I]t won't do to ask whether violating local law was itself "necessary"; the question is whether operating a vehicle is necessary to earn the money needed to perform the Chapter 13 plan. If the answer is yes—and the debtors insist that cars are essential—then the costs of operating that necessary asset are themselves necessary. That's why a debtor who must pay to park in private parking lots also must pay to park on public streets. The debtors have not cited any appellate decision holding or even suggesting that administrative expenses as defined in §503(b)(1)(A) are outside the scope of §1305(a)(2). We hold that vehicular fines incurred during the course of a Chapter 13 bankruptcy are administrative expenses that must be paid promptly and in full. REVERSED.

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