

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

In Re:

DUANE L. OSNESS, a/k/a
Finner Osness

Debtor

JUDITH OSNESS

Plaintiff

vs.

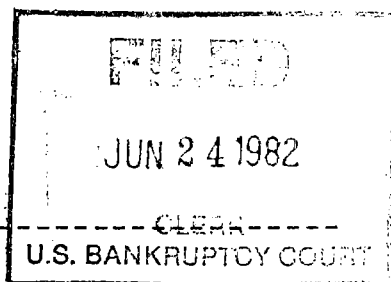
DUANE L. OSNESS

Defendant

In Bankruptcy

No. WF7-81-01381

Adversary No. 81-0254



FINDINGS OF FACT,
CONCLUSIONS OF LAW and ORDER

The plaintiff, Judith Osness, having filed a complaint to determine the dischargeability of certain debts arising out of a divorce judgment and decree in the Circuit Court of Lincoln County, Wisconsin; and defendant having filed his answer denying the material allegations of the plaintiff's complaint; and a pre-trial hearing having been held; and the court having referred the matter of alimony, support money and property settlement back to the Circuit Court of Lincoln County, Wisconsin, for determination; and having received a reply from said court, and having considered the briefs and the arguments of counsel; and being fully advised in the premises, FINDS:

1. That the defendant filed a debtor's petition in this court on the 11th day of August, 1981.
2. That the plaintiff claims there is due her an amount in excess of \$37,173.06 that should be determined non-dischargeable pursuant to a certain divorce decree dated May 5, 1980, as above stated.

3. That subsequent to the divorce decree certain applications were made to the Circuit Court of Lincoln County relative to said decree.

4. That paragraph 3 of said divorce decree provides for child support payments in the total sum of \$230 per month; that paragraph 6 of said decree provides for a complete division of the property of the parties in lieu of any and all maintenance and alimony to either party; and that paragraph 7 of said decree provides for the sale of the home of the parties and a division of the proceeds thereof.

5. That by order of the court dated May 26, 1981, a lien was impressed against the respondent's interest in the real estate of the parties located at 700 East Main Street, Merrill, Lincoln County, Wisconsin, and that such lien was to be security for any and all payments, including child support payments, which the respondent was required to make pursuant to the original judgment of divorce in said matter, and that said lien extended to the proceeds of the sale of said premises, with a final provision that the disbursement of any funds arising out of the sale were to be subject to the further order of the Circuit Court of Lincoln County, Wisconsin.

6. That said judgment further provided for the occupancy of the house by the plaintiff; the payment of certain obligations to the plaintiff under the division of property provision and certain advances made by her.

7. That plaintiff claims the following items listed in the defendant's bankruptcy schedules are not dischargeable, as follows:

Delinquent water bills	\$	104.96
Real Estate mortgage		22,000.00
Gene's Refrigeration (subsequently paid by plaintiff)		292.00
Loans to ex-wife by mother-in-law		7,500.00
Livingston's Department Store		36.00

M & I Citizens American Bank, Consolidation loan, divorce court ordered payment	\$ 2,400.00
Court ordered house payments made by plaintiff	953.56
Additional court ordered house payments	572.00
Additional ordered house payments	715.05
Court ordered insurance premium payments	56.00
Child support arrearages listed in schedules	1,775.00
House wiring ordered by court for payment	40.00
Refrigerator alleged as purchased	400.00
Light bills ordered by divorce court for payment	69.00
Additional light bills ordered by court for payment	50.00
Additional light bills ordered by court for payment	209.45
Additional child support arrearages to date	Exact Amount unknown
Future child support payments	

8. That on the 7th day of May, 1982, the Honorable J. Michael Nolan, Circuit Judge of Lincoln County, Wisconsin, advised this court, upon reconsideration of said judgment, in part as follows:

"First of all, nothing is intended for alimony, maintenance or support of either of the parties. As noted in the first paragraph of my decision 'both parties agreed that they were not seeking maintenance from the other.' I took under advisement only the questions of child support, visitation rights and property division.

Paragraph 3 of the judgment is of course clearly intended as child support. I believe that this paragraph is self-explanatory.

Paragraphs 6 and 7 are intended as property division, of both the real and personal property of the parties. No part of either paragraphs 6 or 7 are intended as support or maintenance for any of the parties or the children with one caveat."

9. That the only items nondischargeable in these proceedings are the items of child support in the sum of \$230 per month; the arrearage of \$1,775; the arrearage, if any, from the date of the filing of the complaint herein, and any future child support payments.

10. That said lien filed by the court is a valid and binding judicial lien under the laws of the State of Wisconsin, and its effect is not involved under the Bankruptcy Code but is to be determined by the Circuit Court of Lincoln County, Wisconsin.

CONCLUSIONS OF LAW

That an order be entered determining that the non-dischargeability of the items claimed by the plaintiff are denied excepting the child support payments, past, present and future, and any and all funds involved in any trust lien matter under said judgment are subject to the order and direction of the Circuit Court of Lincoln County, Wisconsin, and not the Bankruptcy Court.

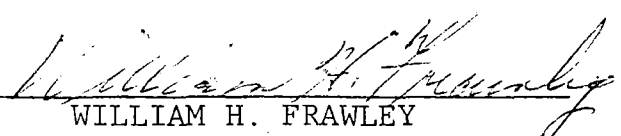
O R D E R

NOW, THEREFORE, IT IS ORDERED:

1. That the arrearage for support of the minor children of the parties in the sum of \$1,775 plus any accrued arrearage since the filing of the bankruptcy petition and complaint herein, and any future child support payments are not dischargeable in this proceedings.

2. That all of the other items claimed by said plaintiff are hereby discharged as debts of the defendant except as to those items that may be determined by the Circuit Court of Lincoln County, Wisconsin, to be covered under the lien provision of the order of said court relative to establishing a lien on the property of the respondent.

Dated: June 24, 1982.


WILLIAM H. FRAWLEY
BANKRUPTCY JUDGE