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2-26-1997

In Re: Ronald Yuhas

Precedential or Non-Precedential:

Docket 96-5146

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 96-5146

IN RE: RONALD J. YUHAS,
Debtor

THOMAS J. ORR,
Appellant

v.

RONALD J. YUHAS

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

(Civil Action No. 95-5551)

Argued: October 1, 1996
Before: ALITO and McKEE, Circuit Judges
and GREEN, District Judge

(Opinion Filed on: January 22, 1997)

ORDER

The opinion in this case is hereby amended:

The following is added as footnote 5 at the end of the last sentence
of Part II.

Our decision in this case is fully consistent with In re Clark, 711 F.2d 21 (3d Cir. 1983). Our decision here concerns the question whether a qualified IRA is excluded from a bankruptcy estate under 11 U.S.C. § 541, as a result of a 1993 amendment of N.J.S.A. § 25:2-1(b). By contrast, the holding in In re Clark, supra, concerned the meaning of an exemption provision,

11 U.S.C. § 522(d)(10)(E). It is true that the parties in In re Clark appear to have assumed that the petitioner's Keogh plan was property of the bankruptcy estate, see 711 F.2d at 22, but at that time the amendment of N.J.S.A. § 25:2-1(b) that provides the foundation for our decision here had not been enacted, and thus there was no basis for contending that the Keogh plan was excluded from the estate on the ground that we endorse here.

BY THE COURT:

\s\ Samuel A. Alito, Jr.

Circuit Judge

DATED: February 26, 1997