

MANDATE

United States Court of Appeals

FOR THE
SECOND CIRCUIT

00-11440

18

VTDC/bbvt
✓ 01-CV-240
Sessions

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the 9th day of July, two thousand and three.

Before: Hon. Chester J. Straub,
Hon. Rosemary S. Pooler,
Circuit Judges
Hon. David N. Hurd,
Judge

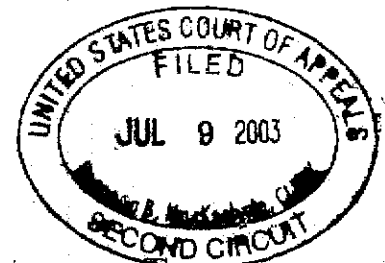
Docket No. 02-5066

In Re: LEONARD L. RIENDEAU,
Debtor,

LEONARD L. RIENDEAU,
Debtor - Appellant,

v.

JOHN R. CANNEY (Chapter 7 Trustee),
Trustee-Appellee.



U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED
Aug 4 10 52 AM '03
CLERK
DEPUTY CLERK

Appeal from the United States District Court for the District of Vermont.

This cause came on to be heard on the transcript of record from the United States District Court for the District of Vermont and was submitted by counsel.

On consideration whereof, it is hereby ORDERED, ADJUDGED and DECREED that the judgment of said district court be and it hereby is AFFIRMED in accordance with the opinion of this Court.

A TRUE COPY

Roseann B. MacKechnie, CLERK

by Arthur M. Heller
DEPUTY CLERK

FOR THE COURT:

ROSEANN B. MACKECHNIE, Clerk

by

Arthur M. Heller

Arthur M. Heller
Motions Staff Attorney

ISSUED AS MANDATE JUL 29 2003

* The Honorable David N. Hurd, United States District Judge for the Northern District of New York, sitting by designation.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

August Term, 2002

(Submitted: June 27, 2003 Decided: July 9, 2003)

Docket No. 02-5066

IN RE: LEONARD L. RIENDEAU,
Debtor,

LEONARD L. RIENDEAU,
Debtor-Appellant,

—v.—

JOHN R. CANNEY (Chapter 7 Trustee),
Trustee-Appellee.

Before:

STRAUB and POOLER, *Circuit Judges,*
and HURD, *Judge.**

* The Honorable David N. Hurd, United States District Judge for the Northern District of New York, sitting by designation.

Appeal from the judgment of the United States District Court for the District of Vermont (William K. Sessions, III, *Chief Judge*) affirming the decision of the United States Bankruptcy Court for the District of Vermont (Colleen A. Brown, *Judge*). Because we agree that debtor may not exempt the claimed pre-petition income from the bankruptcy estate under Vt. Stat. Ann. tit. 12, § 3170(b), we affirm.

KATHLEEN WALLS, Middlebury, VT, *for Debtor-Appellant.*

JOHN R. CANNEY, III, Rutland, VT, *for Trustee-Appellee.*

PER CURIAM:

Debtor-Appellant Leonard L. Riendeau ("Riendeau") is a Vermont dairy farmer who has filed for Chapter 7 bankruptcy. After he filed for bankruptcy protection, Riendeau received a check in payment for prior milk production as well as a federal milk-subsidy check. Riendeau claims that this post-petition income is exempt from the bankruptcy estate under 12 Vt. Stat. Ann. tit. 12, § 3170(b). The United States District Court for the District of Vermont (William K. Sessions, III, *Chief Judge*) affirmed the order of the United States Bankruptcy Court for the District of Vermont (Colleen A. Brown, *Judge*) sustaining the Trustee's objection to the claimed exemption. Both the Bankruptcy Court and the District Court concluded that § 3170(b) applies only when trustee process has been initiated under Vermont law and may not be invoked as an independent state exemption under 11 U.S.C. § 522(b)(2). We affirm for the reasons stated in Chief Judge Session's opinion and order. *See In re Riendeau*, ___ B.R. ___, 2002 WL 32113751 (D. Vt. 2002).