

In the District of Arizona Bankruptcy Court

CRIMES IN PROGRESS

EMERGENCY MOTION TO VACATE JUDGE MARLAR'S JANUARY 26, 2009
ORDER TO SHOW CAUSE AND
EMERGENCY MOTION FOR STAY OF ALL CHAPTER 13 PROCEEDINGS AS PER
DEBTOR'S APPLICATION FOR INJUNCTIVE RELIEF AND
SEIZURE OF PERSONAL PROPERTY

By Honest Durden

On January 27, 2009, in an effort to stop the illegal proceeding, debtor John Stone, filed a request with the court to vacate the February 12, 2009 show cause hearing based on federal Judge Mary H. Murguia pre-filing injunction.

The hearing was set after debtor John Stone and wife Shirley Stone, non-debtor party in interest, filed a complaint against Murguia, Marlar and 12 other judges who executed on the void order. [Complaint]

With Marlar and Murguia defendants in the claim, Marlar, just as Murguia is failing to give full faith and credit to the order that, as a matter of law, vacated and destroyed the order, which Murguia based her order on.

The complaint filed against Murguia, Marlar and the others, gives a compelling account indicating substantial evidence that the courts usurped power, acted without authority of law and intentionally rendered their void orders with the knowledge that they were acting unlawfully.

After the Stones filed the claim, they filed a motion to vacate Judge Marlar's January 26, 2009 order and stay all chapter 13 proceedings pursuant to "Debtor's Application for Injunctive Relief and Seizure of Personal Property" filed with this Court January 27, 2009, until injunctive relief is granted for adversaries 2:09-ap-00045 and 2:09-ap-00081.

Although setting a hearing immediately is required by law and giving to any attorney making the request, procedures for the Stones, representing themselves and their bankruptcy estates without an attorney are being ignored by the judge, whom the Stones were told, "Judge has the pleading on his desk, I've done my part".

This filing by the Stones was made before they knew of the February 12th hearing to show cause. As stated in earlier writings, Marlar is the gatekeeper in this arena and is set to block any action to give the Stones justice in gross violation of the law.

The following is the motion filed with the court and ignored.

February 3, 2009

1 John W. Stone
Debtor/Pro se

2 UNITED STATES BANKRUPTCY COURT
3 FOR THE DISTRICT OF ARIZONA

4 In Re:) CHAPTER 13 ADVERSARY
5) PROCEEDING

6 John W. Stone,)

7 Debtor)

CASE NO. 2:08-16103 JMM

8) EMERGENCY MOTION TO VACATE
9) JUDGE MARLAR’S JANUARY 26, 2009
10) ORDER TO SHOW CAUSE

11 John W. Stone, as Chapter 13 and Chapter 11 DIP)
12 on behalf of bankruptcy estates Chapter 13, Chapter)
13 11 and on behalf of self, and Shirley D. Stone, as)
14 party interest and Chapter 11 DIP, on behalf of)
Chapter 11 bankruptcy estate and self.)

AND

Movants)

EMERGENCY MOTION FOR STAY OF
ALL CHAPTER 13 PROCEEDINGS AS
PER DEBTOR’S APPLICATION FOR
INJUNCTIVE RELIEF AND SEIZURE OF
PERSONAL PROPERTY

15 Debtor hereby moves this Court to vacate Judge Marlar’s January 26, 2009 order and stay all
16 chapter 13 proceedings pursuant to “Debtor’s Application for Injunctive Relief and Seizure of Personal
17 Property” filed with this Court January 27, 2009, until injunctive relief is granted for adversaries 2:09-
18 ap-00045 and 2:09-ap-00081.

19 Pursuant to this Court’s inherent power and Bankruptcy Rule 7062 applicable as per Federal
20 Rules of Civil Procedure, Rule 62(f), the Court may make any order appropriate, to preserve the status
21 quo or the effectiveness of the judgment subsequently to be entered.
22

23 Also pursuant to 11 U.S.C. § 105, the bankruptcy court can and must issue any mandate or
24 order to prevent the fraud practice upon it. Congress’ intent was to arrest bankruptcy fraud
25 immediately to prevent injuries to the debtor and creditors.

1 First, it is obvious that Judge Marlar has a personal interest in the outcome of this case. Judge
2 Marlar has before him the debtor's motion to recuse himself, but is disregarding his mandatory duty to
3 disqualify himself to specifically block justice and the fair administration of this case.

4 As set forth in the debtor's adversaries, void orders were rendered on assets belonging to the
5 bankruptcy estate from which the creditors can be paid, this include orders rendered by Judge Marlar.

6 The void orders also include federal Judge Murguia's September 29, 2008 order executed
7 without jurisdiction and authority of law, which fraudulently transferred the debtor's property and
8 property rights, belonging to the bankruptcy estate.

9 On January 26, 2009, Judge Marlar rendered an order using Judge Murguia's September 29,
10 2008 order as a basis for his order for hearing "to show cause".

11 As a matter of law, Judge Murguia's order is void and must be vacated; therefore, as a matter of
12 law, Judge Marlar's order is void because the hearing is base on a void order, which is corruptly being
13 used to interfere with the debtor's rights, and are blocking the fair and just administration of the estate.
14

15 Judge Marlar knows with certainty that prior to the order of Superior Court, Judge McMurdie
16 December 8, 2008 order vacated the lower court's order, which reinstated the void judgment, which
17 Judge Murguia's order was based. Since Judge Murguia's order is a subsequent order to the lower
18 court's vacated order, her order too, is deemed void for lack of jurisdiction and authority of law.

19 Judge Marlar knows that prior to the setting aside of the State Court order, which cannot be
20 lawfully executed, he has NO lawful authority to issue any order that is contrary to that state order.

21 The fact of the matter is that the debtor has already shown cause because the first adversary,
22 2:09-ap-00045, is not only a collateral attack on that order, but a direct attack pursuant to Rule 9024.
23
24
25

1 Pursuant to Bankruptcy Rule 9024, applicable to Federal Rules of Civil Procedure, Rules
2 60(b)(3)(4)(5)(6), Judge Marlar's order is void, too and the debtor request that it be immediately
3 vacated.

4 By issuing his order, Judge Marlar is aiding the other defendants to further their bankruptcy
5 fraud, RICO predicate acts, defrauding the creditors, and civil rights violations, and escape prosecution
6 for their unlawful and scienter acts.

7 As a matter of law, if the defendants' abide by his January 26, 2009 void order, and fail to
8 timely respond to the adversaries, they are acting at their own peril.

9 Furthermore, the Rooker Feldman Doctrine and other laws prevent Judge Marlar from acting
10 contrary to Judge McMurdie's order, which he has already done, thus as a matter of law he is in
11 contempt.

12 The injunctive relief sought, was requested to enjoin the miscarriage of injustice and the
13 ensuing irreparable harm being perpetuated against the bankruptcy estate, the debtor and his family.

14 The debtor and family have been subjected to the infliction of extreme emotional distress
15 caused by the improprieties against the debtor and bankruptcy and have severely hampered the
16 debtor's effort in the administration of the estate.

17 WHEREFORE, to prevent the miscarriage of injustice the ensuing harm to the bankruptcy
18 estate and debtor, the movants request that Judge Marlar's January 26, 2009 order to show cause be
19 immediately vacated as void, judgment was vacated and request a stay of proceedings until injunctive
20 relief is granted, necessary for the benefit of the bankruptcy estate, debtor and party in interest.
21

22 Respectfully submitted this 28th day of January 2009.

23 John W. Stone
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