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JUDGE: M. A. Mahoney

PARTIES: Steve Cardell Lott, Vernessa Darnette Lewis Lott

CHAPTER: 7

ATTORNEYS: F. Hollinger, R. Holladay

DATE: 1/24/02

KEY WORDS:

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

In Re

STEVE CARDELL LOTT
VERNESSA DARNETTE LEWIS LOTT

Case No. 01-14137-MAM-7

Debtors.

**ORDER SUSTAINING TRUSTEE'S OBJECTION
TO DEBTOR VERNESSA LOTT'S HOMESTEAD EXEMPTION**

Frances Hollinger, Attorney for the Trustee
Ross Holladay, Attorney for the Debtors

This case is before the Court on the Trustee's objection to Vernessa Lott's claim of dhomestead exemption. The Court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Order of Reference of the District Court. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court has the authority to enter a final order. For the reasons indicated below, the Court is sustaining the trustee's objection.

FACTS

The debtors filed a chapter 7 bankruptcy case on August 17, 2001. In their original bankruptcy schedules, they claimed a \$5,000 exemption for their homestead at 1708 Carlisle Drive East in Mobile, AL pursuant to ALA. CODE § 6-10-2 (1975). On October 15, 2001, the debtors amended their schedules and, among other things, claimed an additional \$5,000 exemption in their homestead.

Mr. Lott is the fee owner of the homestead. His wife, Vernessa, is not a fee owner of the property.

LAW

The trustee objected to the Lotts claiming a \$5,000 exemption for Vernessa Lott's interest in the property. The trustee argues that the interest does not rise to the level of an interest protected by the Alabama exemption statute. The debtor argues that Ms. Lott has an interest in the property as Mr. Lott's wife and her signature is required to sell the property. Therefore the interest is one that the Alabama exemption law protects.

This Court issued a ruling in a nearly identical situation in August 2001. In the *Cassity* case, the Court ruled that the inchoate interest of a spouse who is not a fee owner is not protected by the Alabama exemption statute and no exemption can be claimed. *See In re Cassity*, Order dated August 3, 2001 (Bankr. S.D. Ala. 2001). The Court adopts the reasoning of that ruling which is attached.

IT IS ORDERED that the trustee's objection to Vernessa Lott's homestead exemption is SUSTAINED and the exemption is DISALLOWED.

Dated: January 24, 2002

MARGARET A. MAHONEY
CHIEF BANKRUPTCY JUDGE