

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE SOUTHERN DISTRICT OF ALABAMA

IN RE:)
)
Jonathan Watson and Jessica Watson,) Case No. 25-10581
)
Debtors.)

ORDER GRANTING IN PART MOTION (DOC. 41) TO AVOID JUDICIAL LIEN

A debtor's motion to avoid a judicial lien under Bankruptcy Code § 522(f)(1)(A) is usually a straightforward matter of valuing the debtor's assets, ascertaining any liens, and performing some mathematical calculations. Here, the debtors have filed a motion to avoid the judicial lien of Jonathan Baker, which Mr. Baker opposes. The question before the court is whether the hypothetical costs of disposing of the property should be factored in when making the § 522(f) calculation. For the reasons discussed below, the court finds that the answer is no and grants the motion only in part.

Background

In January 2025, Mr. Baker obtained a state court judgment against the debtor Jonathan Watson in the amount of \$18,400 plus costs. He recorded that judgment on February 5, 2025 in the Probate Court of Mobile County, Alabama. The debtor Johnathan Watson and his wife then filed for chapter 13 bankruptcy on March 3, 2025, and Mr. Baker filed an unsecured claim, claim no. 2, of \$19,164.80 (which included interest). Mr. Baker argues that Mr. Watson has equity in property to which the judgment lien attaches and thus the lien cannot be avoided.¹

The debtors' sworn schedules (doc. 1) show that Mr. Watson (not his wife) owns property located at 7025 Powell Road, Eight Mile, Mobile County, Alabama. The debtors listed the property value as \$322,000 and stated as follows: "19.81 acres of land & 2022 Winston Grayson 30x76

¹ Whether the recorded judgment is a preference is not the subject of this order, which is limited to whether the lien can be avoided under § 522(f).

Mobile Home (Private appraisal equals \$322,000 minus liquidation expense of \$19,350.00 equals \$302,650.00).” The debtors claim an exemption of \$18,800 in the property on Schedule C and list a mortgage on the property by 21st Mortgage of \$284,021.27 on Schedule D. 21st Mortgage’s proof of claim (claim no. 6) came in slightly higher at \$289,870.93.

Legal Analysis

Under Bankruptcy Code § 522(f)(1)(A), the debtor “may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled . . . if such lien is . . . a judicial lien” A judicial lien impairs a debtor’s exemption “to the extent that the sum of – (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor’s interest in the property would have in the absence of any liens.” 11 U.S.C. § 522(f)(2)(A). “The petition date is the appropriate measuring point to assess the value of the property for a debtor’s motion to avoid a lien under § 522(f).” *In re Huff*, No. 11-01342, 2011 WL 5911926, at *1 (Bankr. S.D. Ala. Nov. 23, 2011).

The Powell Road property is the only property at issue; there is no evidence that Mr. Watson owns any other real or personal property that is not fully exempt. The debtors argue that there is no available equity in the Powell Road property because of the hypothetical costs of selling the property.

When considering a lien avoidance under Code § 522, courts in the Eleventh Circuit use the approach in *In re Lehman*, 205 F.3d 1255 (11th Cir. 2000), which does not include the hypothetical costs of sale. This court (Judge Margaret A. Mahoney) has also previously held that in calculating the extent to which a judgment lien impairs a chapter 13 debtor’s homestead exemption, the court should not consider the hypothetical costs of sale. *See In re Richardson*, 280 B.R. 717, 718-19 (Bankr. S.D. Ala. 2001).

The parties have agreed to use the sworn schedules as evidence of the value of the property. Based on the scheduled value of \$322,000, the mortgage amount evidenced by the mortgagor's proof of claim of \$289,870.93 subtracted from \$322,000 leaves \$32,129.07 of equity in the property. *See generally, e.g., In re Hines*, 799 F. App'x 743 (11th Cir. Jan. 27, 2020) (applying *In re Lehman*). Subtracting the debtor's homestead exemption of \$18,800 leaves \$13,329.07 of equity to which the judgment lien can attach without impairing the debtors' exemptions. The court thus grants the motion to avoid in part as follows:

1. The lien of Jonathan Baker created by the recordation of a certificate of judgment at Instrument No. 2025007399 on February 5, 2025 in the Probate Court of Mobile County, Alabama ("the Judicial Lien") impairs the exemptions to which the debtors are entitled, and the Judicial Lien is hereby avoided to the extent it exceeds \$13,329.07 in the debtors' property under Bankruptcy Code § 522(f).
2. Upon discharge of the debtors in this bankruptcy case and the recordation of this order in probate court along with an order of discharge entered in this bankruptcy case, the Judicial Lien shall remain enforceable against the real property and mobile home located at 7025 Powell Road, Eight Mile, Mobile County, Alabama only to the extent of \$13,329.07. The Judicial Lien is avoided completely as to any other real or personal property owned by the debtors.

Dated: September 9, 2025


HENRY A. CALLAWAY
U.S. BANKRUPTCY JUDGE