

APR 04 2005UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION_____
IN RE:

CASE NO. 04-95178-jem

Renna Mayes,

CHAPTER 13

Debtor.

JUDGE MASSEY

Felicia S. Turner, United States Trustee,

Plaintiff,

v.

ADVERSARY NO. 04-6574

Glenda B. Allen,

Defendant.
_____ORDER DENYING MOTION TO DISMISS AND
SETTING DEADLINE FOR FILING AN ANSWER

In this adversary proceeding, Plaintiff, Felicia S. Turner in her capacity as United States Trustee, seeks a judgment against Defendant Glenda B. Allen in the amount of \$6,500.00 for alleged violations of section 110 of the Bankruptcy Code, 11 U.S.C. § 110, which regulates what petition preparers who are not attorneys may, may not and must do. Defendant filed a response to the complaint on November 17, 2004, which the Court construes as a motion to dismiss for lack of jurisdiction.

Ms. Allen's defense is an unusual one. She contends that she is not subject to laws of the United States because she is a "sojourner, with no ties to the land" and is "an Indigenous

Peoples (sic) in the lineage of the Olmec Civilization, with heritage upon the land, Muu Lan,” which she contends was mis-named “United States of America” by “the Invading Alien Europeans.” Defendant objects to the Court’s jurisdiction, invoking Rule 12(b)(1) of the Federal Rules of Civil Procedure.

Civil Rule 12(b)(1) is applicable in adversary proceedings in bankruptcy pursuant to Rule 7012 of the Federal Rules of Bankruptcy Procedure. Civil Rule 12(b)(1) provides:

Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter[.]

The Court has subject matter jurisdiction over this matter. 28 U.S.C. § 1334 provides that “district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.” Title 11 of the United States Code is the Bankruptcy Code. 28 U.S.C. § 157(a) provides: “(a) Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.” Local Rule 83.7(A) of the United States District Court for the Northern District of Georgia provides:

Bankruptcy judges are judicial officers of this court serving in the unit of this court known as the United States Bankruptcy Court for the Northern District of Georgia. Each bankruptcy judge shall perform the duties set forth and may exercise the authority conferred in Section 104 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353, 98 Stat. 333 (July 11, 1984) (to be codified as 28 U.S.C. §§ 151-58) with respect to any action, suit, or proceeding and may preside alone and hold a regular or special session of the bankruptcy court, except as otherwise provided by law or by rule or order of this court.

Pursuant to 28 U.S.C. § 157(b), bankruptcy judges may hear all matters arising under title 11 and in particular those core matters concerning administration of the debtor’s estate.

Adjudicating alleged violations of section 110 of the Bankruptcy Code is a core matter concerned with the administration of bankruptcy estates. Therefore, this Court has subject matter jurisdiction over this dispute.

To the extent that the response filed by Defendant could be construed as a motion to dismiss for lack of in personam jurisdiction over Defendant, it is without merit.

The Olmec civilization is the name given to a sophisticated central American culture between 1200 and 400 BC. It was not a civilization that found its way to that part of the North American continent now known as The United States of America. Even if Ms. Allen is a descendant of that culture, she is quite mistaken in her belief that she is not subject to the laws of the United States of America and hence to the in personam jurisdiction of this Court.

As a sovereign nation, the United States has jurisdiction over citizens and non-citizens within its borders and under some circumstances beyond its borders. As Justice Gray stated in a case decided in 1898:

The fourteenth amendment affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country, including all children here born of resident aliens, with the exceptions or qualifications (as old as the rule itself) of children of foreign sovereigns or their ministers, or born on foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes. The amendment, in clear words and in manifest intent, includes the children born within the territory of the United States of all other persons, of whatever race or color, domiciled within the United States. Every citizen or subject of another country, while domiciled here, is within the allegiance and the protection, and consequently subject to the jurisdiction, of the United States.

U.S. v. Wong Kim Ark, 169 U.S. 649, 693, 18 S.Ct. 456, 473-74 (1898). Wrongs against persons indigenous to the North American continent committed by early Americans is not a basis upon

which a descendant of one of those wronged persons residing in the United States can escape the jurisdiction of the United States.

For this reason, it is

ORDERED that Defendant's motion to dismiss is DENIED. Defendant shall have 23 days from the date of this Order within which to answer the complaint. If she fails to file a timely answer to the complaint, the Court may enter a judgment against her for the relief demanded in the complaint.

Dated: April 4, 2005.



JAMES E. MASSEY
U.S. BANKRUPTCY JUDGE