Opinion Title: 06/21/2006 PUBLISHED In re Wilbur, 06-20104, Judge Thurman.
Body: In this case, the Court was called upon to determine the scope of the phrase "unsecured creditors" in the context of Section 1325(b)(1)(B) relating to confirmation of a chapter 13 plan. That section provides that upon objection to confirmation by a party in interest, the Court may confirm a debtor's proposed chapter 13 plan only if the debtor proposes to pay unsecured creditors in full, or proposes to pay the debtor's projected disposable income for the applicable commitment period to "unsecured creditors." The Debtors in this case urged the Court to adopt the plain language of §1325(b)(1)(B). They contended that the phrase "unsecured creditors" refers to both priority and non-priority unsecured creditors which resulted in a lower payment to the unsecured creditors. The chapter 13 Trustee disagreed and objected to the plan.The Court declined to enforce the plain language of section 1325(b)(1)(B) because that interpretation conflicts with manifest Congressional intent, and would bring an absurd result. The Court concluded that the reference in section 1325(b)(1)(B) to "unsecured creditors" refers to non-priority unsecured creditors only, requiring the Debtors' proposed chapter 13 plan to return to non-priority unsecured creditors at least the amount calculated on Form B22C, which in this case would be a much greater amount than proposed. Since the Debtors' proposed plan did not comply with this requirement, the Court held that the Debtors' proposed plan did not meet the requirements of section 1325(b)(1)(B) and was not confirmable.
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Judge: Judge William T. Thurman [2]
Date: Wednesday, June 21, 2006

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