

Fee Award Rendered Against Prisoner for Maintaining Frivolous Litigation is Not Subject to Discharge Under the Federal Bankruptcy Code

February 9, 2012 by [David J. McMahon](#)

In [Searcy v. ADA County](#), 2012 DJDAR 1099 (BAP 2012), the [Bankruptcy Appellate Panel](#) (the “BAP”) for the Ninth Circuit decided whether a fee award rendered against a prisoner under Idaho State law was a dischargeable debt under the [Federal Bankruptcy Code](#).

The court concluded it was not and affirmed the decision to exempt the award from a bankruptcy discharge.

A prisoner sued a county government (the “County”) alleging civil rights claims. The district court concluded that the litigation had no merit and granted summary judgment in the County’s favor. In addition, the judge awarded \$7,944 in attorney fees to the County pursuant to [Idaho Code Section 31-3220A\(16\)](#).

Pursuant to that Idaho statute, the court has the power to award attorney fees in a case brought by a prisoner where the action is found to be frivolous or where a claim cannot be stated as a matter of law.

The prisoner appealed the grant of summary judgment rendered by the trial court. The court of appeal concluded that the motion for summary judgment was granted appropriately. The court went further and also concluded that the appeal was frivolous. The court awarded attorney fees under Idaho statute Section 31-3220A(16) in the sum of an additional \$5,288.

Later, the prisoner petitioned for [Chapter 7](#) relief under the Federal Bankruptcy Code. The bankruptcy court ruled that the prisoner’s debt on the fee claims were properly discharged under the Chapter 7 filing. The County then filed papers asking the court to exempt the awards from the Chapter 7 discharge.

Upon reexamination of the matter, the bankruptcy court concluded that the awards were exempted from discharge under [Bankruptcy Code Section 523](#). It entered an order accordingly.

The BAP affirmed the decision by the bankruptcy court.

The panel noted that the prisoner did not dispute the court’s determinations that the initial litigation was frivolous. The panel noted that the award of attorney fees and costs under Section 31-3220A(16) were penalties because they acted as deterrents to frivolous lawsuits and that the awards were exempted from the Chapter 7 discharge order.