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NOT FOR PUBLICATION

HAROLD S. MARENUS, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

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In re:)	BAP No. AZ-08-1028-CMoD
)	
ALFONSO PATION RODRIGUEZ and)	Case No. 03-bk-12360-EWH
IRMA R. RODRIGUEZ,)	Adv. No. 07-ap-00276-EWH
)	
Debtors.)	
_____)	
STATE OF ARIZONA, on behalf of the)	
Peoria Police Department,)	
)	
Appellant,)	<u>MEMORANDUM</u> ¹
v.)	
)	
ALFONSO PATION RODRIGUEZ; IRMA R.)	
RODRIGUEZ,)	
)	
Appellees.)	
_____)	

Argued by Video Conference and Submitted
on June 20, 2008

Filed - July 10, 2008

Appeal from the United States Bankruptcy Court
for the District of Arizona

Honorable Eileen W. Hollowell, Bankruptcy Judge, Presiding

Before: CARROLL,² MONTALI and DUNN, Bankruptcy Judges.

¹ This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have (see Fed. R. App. P. 32.1), it has no precedential value. See 9th Cir. BAP Rule 8013-1.

² Honorable Peter H. Carroll, Bankruptcy Judge for the Central District of California, sitting by designation.

1 forfeiture of certain real and personal property seized by the
2 State during the investigation and prosecution of alleged criminal
3 activity by the Debtors. The Forfeiture Action included the
4 Debtors' principal residence located in Peoria, Arizona
5 ("Residence").

6 On May 15, 1995, Debtors filed a voluntary petition under
7 chapter 13 of the Bankruptcy Code⁶ in Case No. 2:95-bk-04066-CGC,
8 styled In re Alfonso Pation Rodriguez and Irma R. Rodriguez,
9 Debtors, in the United States Bankruptcy Court, District of Arizona
10 ("1995 Case").⁷ Although the bankruptcy case was pending on the
11 petition date, the State did not seek relief from the automatic
12 stay to continue prosecution of the Forfeiture Action against the
13 Residence and other seized property. The State, however, was not
14 given notice of the filing of the Debtors' bankruptcy petition nor
15 did it learn of the Debtors' bankruptcy prior to dismissal of the
16 case six months later.

17
18 ⁵(...continued)
19 forfeiture procedures set forth in §§ 13-4312 and 13-4313 or
20 the uncontested civil forfeiture procedures set forth in § 13-
21 4309. Judicial in rem forfeiture proceedings are in the
nature of an action in rem and are governed by the Arizona
rules of civil procedure unless a different procedure is
provided by law.

22 A.R.S. § 13-4311 (A) & (B) (emphasis added).

23 ⁶ Unless otherwise indicated, all chapter, section and rule
24 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532 as
25 enacted and promulgated prior to the effective date (October 17,
26 2005) of the relevant provisions of the Bankruptcy Abuse Prevention
and Consumer Protection Act of 2005 ("BAPCPA"), Pub. L. 109-8, 119
Stat. 23 (2005), and to the Federal Rules of Bankruptcy Procedure,
Rules 1001-9037.

27 ⁷ The record indicates that the Debtors are serial filers.
28 This petition was the third of twelve chapter 13 petitions filed by
the Debtors, either individually or jointly, between January 4,
1994 and June 4, 2004.

1 On October 18, 1995, the Forfeiture Order was entered in the
2 Forfeiture Action which, in pertinent part, found probable cause
3 for seizure of the Residence and ordered that the Residence "be
4 forfeited to the State of Arizona on behalf of the Peoria Police
5 Department, subject to any outstanding liens."⁸ Debtors did not
6 appeal the Forfeiture Order.

7 On November 22, 1995, the Debtors' chapter 13 case was
8 dismissed. On December 5, 1995, the State recorded the Forfeiture
9 Order in the Maricopa County Recorder's Office but took no further
10 action to enforce the order for a period in excess of 10 years.

11 On July 15, 2003, the Debtors filed their eleventh chapter 13
12 petition in Case No. 2:03-bk-12360-EWH, styled In re Alfonso Pation
13 Rodriguez and Irma R. Rodriguez, Debtors ("2003 Case").⁹ While the
14 case was pending, the State undertook to enforce the Forfeiture
15 Order by again recording the Forfeiture Order in the Maricopa
16 County Recorder's Office on December 26, 2006, and serving a
17 written notice dated April 5, 2007, demanding that the Debtors
18 vacate the Residence not later than May 7, 2007.

19 On May 3, 2007, Debtors filed a complaint in Adversary No. 07-
20 ap-00276-EWH, styled Alfonso Pation Rodriguez and Irma R. Rodriguez
21 v. State of Arizona, on behalf of the Peoria Police Department,
22 alleging that the Forfeiture Order was unenforceable as having
23 expired pursuant to A.R.S. § 12-1611¹⁰ and that the State violated
24 the automatic stay in the 2003 Case by recording the Forfeiture

25 ⁸ Forfeiture Order, p.3, 1.9-11.

26 ⁹ Debtors confirmed a plan in the case on July 26, 2004, and
27 received a discharge on January 8, 2008.

28 ¹⁰ A.R.S. § 12-1611 states:

A judgment may be renewed by action thereon at any time within
five years after the date of the judgment.

1 Order on December 26, 2006, and issuing the eviction notice. On
2 August 8, 2007, the State moved for summary judgment arguing that
3 the Forfeiture Order was valid because A.R.S. § 12-1611 is
4 inapplicable to criminal proceedings resulting in forfeiture of
5 property. The State further asserted that enforcement of the
6 Forfeiture Order did not violate the automatic stay in the 2003
7 Case because the Residence did not constitute property of the
8 estate, reasoning that the Debtors had lost their interest in the
9 Residence at the time the Forfeiture Order was entered on October
10 18, 1995.

11 Without conceding the inapplicability of A.R.S. § 12-1611 to
12 the Forfeiture Order, Debtors filed a cross-motion for summary
13 judgment on September 8, 2007, arguing for the first time that the
14 Forfeiture Order was obtained in violation of the automatic stay in
15 the 1995 Case and was void as a matter of law. The State responded
16 to the Debtors' cross-motion, asserting that the Forfeiture Action
17 supplemented the criminal proceedings against the Debtors and
18 therefore, was excepted from the automatic stay under § 362(b)(4)
19 as an exercise of the government's police or regulatory power.

20 After a hearing on April 2, 2007, the bankruptcy court issued
21 a memorandum decision granting Debtors' cross-motion for summary
22 judgment and finding that "[b]ecause the State did not obtain
23 relief from the automatic stay, the Forfeiture Order violated the
24 § 362(a) stay and was void."¹¹

25 On January 18, 2008, an Order was entered in the adversary
26 proceeding granting Debtors' cross motion for summary judgment and
27 denying all other relief. The State timely filed a notice of
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¹¹ Rodriguez v. Arizona (In re Rodriguez), 2008 WL 192963, at *6 (Bankr. D. Ariz. Jan. 18, 2008).

1 appeal on January 28, 2008.

2 II. JURISDICTION

3 The bankruptcy court had jurisdiction under 28 U.S.C. § 1334
4 and 28 U.S.C. § 157(b) (1) and (b) (2) (B). We have jurisdiction
5 under 28 U.S.C. § 158.

6 III. ISSUE

7 The sole issue before the court is whether it was error to
8 grant the Debtors' cross-motion for summary judgment based upon a
9 finding that the Forfeiture Order was obtained in violation of the
10 automatic stay and was void as a matter of law.

11 IV. STANDARDS OF REVIEW

12 We review a grant of summary judgment de novo. Patterson v.
13 Int'l Bhd. Of Teamsters, Local 959, 121 F.3d 1345, 1348 (9th Cir.
14 1997). In viewing the evidence in the light most favorable to the
15 nonmoving party, we must determine whether there are any genuine
16 issues of material fact and whether the applicable substantive law
17 was applied correctly by the bankruptcy court. City of Vernon v.
18 S. Cal. Edison Co., 955 F.2d 1361, 1365 (9th Cir. 1992). If the
19 record before the bankruptcy court, including all "pleadings,
20 depositions, answers to interrogatories, and admissions on file,
21 together with any affidavits" establish that there are no triable
22 issues and that "the moving party is entitled to judgment as a
23 matter of law, summary judgment will be upheld." Gertsch v.
24 Johnson & Johnson Corp. (In re Gertsch), 237 B.R. 160, 165 (9th
25 Cir. BAP 1999).

26 V. DISCUSSION

27 A. The Automatic Stay.

28 Section 362(a) states, in pertinent part:

1 Except as provided in subsection (b) of this section, a
2 petition filed under section 301, 302, or 303 of this title, .
3 . . operates as a stay, applicable to all entities, of -

4 (1) the commencement or continuation, including the
5 issuance or employment of process, of a judicial,
6 administrative, or other action or proceeding against the
7 debtor that was or could have been commenced before the
8 commencement of the case under this title, or to recover
9 a claim against the debtor that arose before the
10 commencement of the case under this title;

11 (2) the enforcement, against the debtor or against
12 property of the estate, of a judgment obtained before the
13 commencement of the case under this title; [and]

14 (3) any act to obtain possession of property of the
15 estate or of property from the estate or to exercise
16 control over property of the estate;

17 11 U.S.C. § 362(a)(1)-(3) (emphasis added). "The automatic stay is
18 self-executing, effective upon the filing of the bankruptcy
19 petition." Gruntz v. Los Angeles (In re Gruntz), 202 F.3d 1074,
20 1081 (9th Cir. 2000). It is "effective against the world,
21 regardless of notice." Morris v. Peralta (In re Peralta), 317 B.R.
22 381, 389 (9th Cir. BAP 2004); see 3 Collier on Bankruptcy ¶ 362.02,
23 at 362-12.11 (15th ed. rev. 2008) ("Formal service of process is not
24 required, and no particular notice need be given in order to
25 subject a party to the stay."). One of its primary functions "is
26 to preserve property for use in the reorganization of the debtor
27 and to prevent the dismemberment of the estate." Hillis Motors,
28 Inc. v. Haw. Auto Dealers' Ass'n, 997 F.2d 581, 586 (9th Cir.
1993).

29 B. Exceptions to The Automatic Stay.

30 Section 362(b) currently provides, in pertinent part, that the
31 filing of a bankruptcy petition does not operate as a stay -

32 (4) under paragraph (1), (2), (3), or (6) of subsection (a) of

1 this section, of the commencement or continuation of an action
2 or proceeding by a governmental unit . . . to enforce such
3 governmental unit's . . . police and regulatory power,
4 including the enforcement of a judgment other than a money
5 judgment, obtained in an action or proceeding by the
6 governmental unit to enforce such governmental unit's . . .
7 police or regulatory power; . . .

8 11 U.S.C. § 362(b) (4). Section 362(b) (4) was amended in 1998 "by
9 combining §§ 362(b) (4) and (5) and expanding the scope of the
10 exception to cover proceedings 'to obtain possession of property of
11 the estate . . . or to exercise control over property of the
12 estate.'" United States v. Klein (In re Chapman), 264 B.R. 565,
13 570 (9th Cir. BAP 2001) (quoting SEC v. Brennan, 230 F.3d 65, 74
14 (2d Cir. 2000)). Section 362(b) (5) was deleted effective October
15 21, 1998. Because the automatic stay is one of the fundamental
16 debtor protections under bankruptcy law, the exceptions to the
17 automatic stay set forth in § 362(b) are narrowly construed to
18 bolster its effectiveness. See, e.g., Hillis Motors, 997 F.2d at
19 590 ("Exceptions to the automatic stay should be read narrowly.");
20 Stringer v. Huet (In re Stringer), 847 F.2d 549, 552 (9th Cir.
21 1988) ("Exemptions to the stay . . . should be read narrowly to
22 secure the broad grant of relief to the debtor.").

23 C. Civil and Criminal Forfeiture.

24 Forfeiture statutes are either criminal or civil. Criminal
25 forfeiture involves an in personam action directed against the
26 person connected with the property and charged with a violation of
27 the law. United States v. Lazarenko, 476 F.3d 642, 647 (9th Cir.
28 2007) ("Criminal forfeiture operates in personam against a
defendant to divest him of his title to proceeds from his unlawful
activity as a consequence of his criminal conviction."). Civil
forfeiture is an in rem proceeding targeting only the property

1 sought to be forfeited, and is separate and distinct from any
2 related criminal proceeding. See United States v. One 1985
3 Mercedes, 917 F.2d 415, 419 (9th Cir. 1990) (“[C]ivil forfeitures
4 are in rem proceedings in which the ‘guilt’ at issue is the ‘guilt’
5 of the property seized.”). Because the two proceedings are not
6 mutually exclusive, the government may pursue a civil forfeiture
7 even if the criminal forfeiture was unsuccessful either because the
8 owner was not charged with a crime or was acquitted. See United
9 States v. Dunn, 802 F.2d 646, 647-48 (2d Cir. 1986) (holding that
10 the remedies of criminal and civil forfeiture under 21 U.S.C. § 853
11 and 21 U.S.C. § 881, respectively, are not mutually exclusive).

12 Criminal forfeiture actions are excepted from the automatic
13 stay under the plain language of § 362(b)(1) which specifically
14 excepts criminal proceedings “against the debtor.” 11 U.S.C.
15 § 362(b)(1). This conclusion is bolstered by the legislative
16 history of § 362(b)(1) which states that “bankruptcy laws are not a
17 haven for criminal offenders, but are designed to give relief from
18 financial over-extension.” H.R. Rep. No. 95-595, at 342 (1977),
19 reprinted in 1978 U.S.C.C.A.N. 5963, 6299.

20 The State’s Forfeiture Order was obtained pursuant to
21 Arizona’s civil forfeiture statute.¹² Prior to § 362(b)’s amendment
22 in 1998, courts were divided as to whether civil forfeiture
23 proceedings were excepted from the stay under § 362(b)(4) or (5).
24 Compare James v. Draper (In re James), 940 F.2d 46, 51 (3d Cir.
25 1991); Boricua Motors Leasing Corp. v. Puerto Rico, 154 B.R. 834,
26 835-36 (D. Puerto Rico 1993); and Brewer v. United States (In re

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28 ¹² See supra notes 4 & 5. In Arizona, a judicial in personam
forfeiture proceeding is governed by A.R.S. § 13-4312. The State
did not proceed against the Debtors under A.R.S. § 13-4312.

1 Brewer), 209 B.R. 575, 577 (Bankr. S.D. Fla. 1996) (holding that
2 civil forfeiture actions were excepted from the stay under
3 § 362(b)(4)), with United States v. One Parcel of Real Property
4 Commonly Known As Star Route Box 1328, Glenwood, Washington County,
5 Or., 137 B.R. 802, 804 (D. Or. 1992); Ga. v. Bell (In re Bell), 215
6 B.R. 266, 274 (Bankr. N.D. Ga. 1997); and Weaver v. City of
7 Knoxville (In re Thomas), 179 B.R. 523, 528 (Bankr. E.D. Tenn.
8 1995) (determining that civil forfeiture actions violate § 362(a)(3)
9 and are not excepted under § 362(b)(4)).

10 While conceding that the Forfeiture Action "was in the nature
11 of a civil proceeding,"¹³ the State points to James and its
12 progeny,¹⁴ arguing that the Forfeiture Order is valid because the
13 continuation of its Forfeiture Action against the Debtors'
14 Residence in the 1995 Case was ancillary to a criminal proceeding
15 against the Debtors and permitted by § 362(b)(4). In James, the
16 Third Circuit Court of Appeals concluded that a civil forfeiture
17 action fit within § 362(b)(4)'s police power exception, reasoning
18 that "[a] civil forfeiture action is an action by a governmental
19 unit to enforce its police or regulatory power to combat the
20 problem of illicit drugs" and that § 362(b)(4) excepts "the
21 commencement or continuation" of such actions. 940 F.2d at 51. In
22 so holding, James did not harmonize the plain language of
23 §§ 362(a)(1) and 362(b)(4) and apply narrowly § 362(b)(4)'s

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25 ¹³ Reply Brief, p.1.

26 ¹⁴ The State also cites Goff v. Oklahoma (In re Goff), 159
27 B.R. 33 (Bankr. N.D. Okla. 1993) which, in fact, supports the
28 position articulated by the Debtors. In Goff, the court concluded
that the civil forfeiture action before it was "not an exercise of
'police or regulatory power[]'" nor "excepted from the automatic
stay. . . ." Id. at 41.

1 exception only to actions directed against the debtor stayed by
2 § 362(a)(1). We decline to follow James because it is contrary to
3 established Ninth Circuit precedent and is not binding on this
4 court. Hillis Motors, 997 F.2d at 591 (“There is no governmental
5 powers exception to section 362(a)(3)”).¹⁵

6 In Chapman, we considered the question of whether a civil
7 forfeiture action by the United States against property of the
8 debtor, seized in connection with the debtor’s arrest and criminal
9 prosecution on charges stemming from the manufacture and
10 distribution of marijuana prior to the filing of his chapter 7
11 petition on July 14, 1999, was excepted from the automatic stay.
12 264 B.R. at 567. We held that the United States was not stayed
13 from proceeding to judgment in the forfeiture action under the
14 current version of § 362(b)(4). Id. at 572. In so holding, we
15 concluded that § 362(b)(4) allows a governmental unit to “obtain a
16 money judgment or a judgment for possession,” including a judgment
17 in a civil forfeiture action without violating § 362(a)(3), but
18 prohibits a governmental unit from “enforc[ing] a money judgment
19 without obtaining relief from the automatic stay in the bankruptcy
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21 ¹⁵ Indeed, the Ninth Circuit in Hillis Motors adopted the
22 Eighth Circuit’s narrow construction of the “police power”
23 exceptions afforded by § 362(b)(4) and (5), stating:

24 Even if the precise wording of the various provisions of the
25 stay and their exceptions were not controlling, we would still
26 hold that the governmental powers exceptions do not apply
27 here. We agree with the Eighth Circuit that the terms ‘police
28 or regulatory power’ as used in those exceptions refer to the
enforcement of state laws affecting health, morals, and safety
but not regulatory laws that directly conflict with the
control of the res or property by the bankruptcy court.

28 Hillis Motors, 997 F.2d at 591 (quoting In re Missouri v. U.S.
Bankruptcy Court for the E.D. of Ark., 647 F.2d 768, 776 (8th Cir.
1981), cert. denied, 454 U.S. 1162 (1982)) (footnote omitted).

1 court." Id. at 571.

2 As we pointed out in Chapman, a governmental unit would not
3 have been permitted to commence or continue an in rem civil
4 forfeiture action prior to § 362(b)(4)'s amendment in 1998.¹⁶ Id.
5 ("With the addition of (a)(3) to § 362(b)(4) . . . , an in rem
6 action is excepted from the stay."). When the 1995 Case was
7 commenced, § 362(b)(4) permitted a governmental unit to commence or
8 continue an action against the debtor under its police or
9 regulatory power notwithstanding § 362(a)(1), and § 362(b)(5)
10 authorized a governmental unit to enforce a non-money judgment
11 against the debtor or property of the estate under its police or
12 regulatory power notwithstanding § 362(a)(2).¹⁷ Because neither
13 § 362(b)(4) or (5) exempted a governmental unit, in the proper
14 enforcement of its police or regulatory power, from obtaining
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16 ¹⁶ Section 362(b) was amended by the Chemical Weapons
17 Convention Implementation Act of 1998, part of the Omnibus
18 Consolidated and Emergency Supplemental Appropriations Act, 1999
19 [hereinafter Chemical Weapons Convention], Pub. L. No. 105-277,
20 § 603, 112 Stat. 2681-886 (1998).

19 ¹⁷ "Paragraphs (4) and (5) formerly read:

20 (b) The filing of a petition . . . does not operate as a stay
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22 (4) under subsection (a)(1) of this section, of the
23 commencement or continuation of an action or proceeding
24 by a governmental unit to enforce such governmental
25 unit's police or regulatory power;

24 (5) under subsection (a)(2) of this section, of the
25 enforcement of a judgment, other than a money judgment,
26 obtained in an action or proceeding by a governmental
27 unit to enforce such governmental unit's police or
28 regulatory power[.]"

27 11 U.S.C. § 362(b)(4)&(5), amended by Chemical Weapons Convention,
28 supra note 16, at § 603, 112 Stat. 2681-886.

1 possession of or exercising control over property of the estate
2 prior to the 1998 amendment, the State's act of continuing the
3 Forfeiture Action and obtaining the Forfeiture Order while the 1995
4 Case was pending violated the automatic stay under § 362(a)(3).
5 See Hillis, 997 F.2d at 591; Chapman, 264 B.R. at 571.

6 D. Impact of the Relation-Back Doctrine.

7 The State points to the relation-back doctrine, arguing that
8 the actual forfeiture of the Residence preceded the filing of the
9 1995 Case because it related back to the commission of the crime.
10 Under the relation-back doctrine, a "[f]orfeiture relates back to
11 the time of the criminal acts giving rise to the forfeiture."
12 Lazarenko, 476 F.3d at 647. However, forfeiture does not
13 automatically vest title to property in the government. The
14 relation back doctrine is inapplicable until a judgment of
15 forfeiture is entered. United States v. Buena Vista Ave., 507 U.S.
16 111, 123-29 (1993); United States v. Real Property at 2659
17 Roundhill Dr., Alamo, CA, 194 F.3d 1020, 1027 (9th Cir. 1999).
18 Until a judgment of forfeiture is entered, "someone else owns the
19 property" and a third party may acquire an interest in the property
20 and "invoke any defense available to the owner of the property
21 before the forfeiture is decreed." Buena Vista, 507 U.S. at 127.

22 Because the filing of the 1995 case preceded entry of the
23 Forfeiture Order, the relation back doctrine does not affect the
24 result in this case. The filing of the bankruptcy petition in the
25 1995 Case created an estate comprised of all legal and equitable
26 interests of the Debtors in property as of the commencement of the
27 case. 11 U.S.C. § 541; see United States v. Whiting Pools, 462
28 U.S. 198, 205 (1983). The Debtors' interest in the Residence, not

1 adjudicated as forfeited prior to bankruptcy, was property of the
2 estate subject to the jurisdiction of the bankruptcy court. The
3 State's action in proceeding with the Forfeiture Action to judgment
4 without authorization from the bankruptcy court was not permitted
5 by § 362(b)(4)'s police power exception and violated the stay under
6 § 362(a)(3).¹⁸

7 E. The Forfeiture Order was Entered in Violation of the Automatic
8 Stay and is Void.

9 In the Ninth Circuit, actions taken in violation of the
10 automatic stay, including judicial proceedings, are void ab initio.
11 Gruntz, 202 F.3d at 1082 n.6; Schwartz v. United States (In re
12 Schwartz), 954 F.2d 569, 571 (9th Cir. 1992) ("[V]iolations of the
13 automatic stay are void, not voidable."); Phoenix Bond & Indem. Co.
14 v. Shamlin (In re Shamlin), 890 F.2d 123, 125 (9th Cir. 1989)
15 ("Judicial proceedings in violation of th[e] automatic stay are
16 void."). Actions in violation of the stay are void for all
17 purposes and are not validated by dismissal of the bankruptcy case.
18 See 40235 Washington Street Corp. v. Lusardi, 177 F.Supp.2d 1090,

20 ¹⁸ "[S]ection 362(d) 'gives the bankruptcy court wide latitude
21 in crafting relief from the automatic stay, including the power to
22 grant retroactive relief from the stay.'" Nat'l Env'tl. Waste Corp.
23 v. City of Riverside (In re Nat'l Env'tl. Waste Corp.), 129 F.3d
24 1052, 1054 (9th Cir. 1997) (quoting Schwartz v. United States (In
25 re Schwartz), 954 F.2d 569, 572 (9th Cir. 1992)). In determining
26 whether to annul the stay retroactively, bankruptcy courts apply a
27 "balancing of the equities" test and weigh certain nondispositive
28 factors, including "(1) whether the creditor was aware of the
bankruptcy petition; and (2) whether the debtor engaged in
unreasonable or inequitable conduct, or prejudice would result to
the creditor." Nat'l Env'tl. Waste, 129 F.3d at 1055; see Fjeldsted
v. Lien (In re Fjeldsted), 293 B.R. 12, 24-25 (9th Cir. BAP 2003)
(identifying other factors to be considered by the court in
divining "the debtor's and creditor's good faith, the prejudice to
the parties, and the judicial or practical efficacy of annulling
the stay"). The State, however, did not seek retroactive relief
from the automatic stay.

1 1104 (S.D. Cal. 2001), aff'd on other grounds, 329 F.3d 1076 (9th
2 Cir. 2003), cert. denied, 540 U.S. 983 (2003) ("The violations
3 remain ineffective even if the underlying bankruptcy case is
4 dismissed."); Richard v. City of Chicago, 80 B.R. 451, 454 (N.D.
5 Ill. 1987) (holding that a debtor's voluntary dismissal of his
6 chapter 13 petition did not "resurrect a sale that [was] legally
7 void" as having been conducted in violation of the automatic stay).
8 Because the State did not obtain relief from the stay in the 1995
9 Case to continue the Forfeiture Action, we conclude that the
10 bankruptcy court did not err in holding that the Forfeiture Order
11 violated the automatic stay and was void.¹⁹

12 CONCLUSION

13 We hold that the bankruptcy court correctly resolved the issue
14 by summary judgment. Because there are no triable issues of fact
15 and the bankruptcy court correctly applied the applicable
16 substantive law, we AFFIRM.

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27 ¹⁹ The fact that the State did not receive specific notice of
28 the Debtors' 1995 Case does not alter this result. See Peralta,
317 B.R. 389 ("Since the automatic stay is effective against the
world, regardless of notice, acts in violation of the stay are
automatically void ab initio.").