

FEB 27 2018

NOT FOR PUBLICATION

SUSAN M. SPRAUL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:) BAP No. AZ-17-1231-KuBL
)
 ROBERT EDWIN MARTIN,) Bk. No. 4:16-bk-00443-SHG
)
 Debtor.)
)
 _____)
)
 ROBERT EDWIN MARTIN,)
)
 Appellant.)

MEMORANDUM*

Submitted Without Oral Argument on February 23, 2018

Filed - February 27, 2018

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

Honorable Scott H. Gan, Bankruptcy Judge, Presiding

Appearances: Appellant Robert Edwin Martin pro se on brief

Before: KURTZ, BRAND, and LAFFERTY, Bankruptcy Judges.

Chapter 7¹ debtor, Robert Edwin Martin (Martin), appeals
from the bankruptcy court's order denying his motion to transfer

* 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.

¹ Unless otherwise indicated, all chapter and section
references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and
Rule references are to the Federal Rules of Bankruptcy Procedure.

1 his closed bankruptcy case from the District of Arizona to the
2 Central District of California. We AFFIRM.

3 **I. FACTS**

4 On January 19, 2016, Martin filed a chapter 7 petition.
5 Martin listed as his sole creditor The California Department of
6 Corrections (CDC) with a judgment lien for \$526,820. Martin
7 obtained his § 727 discharge and the case was closed on
8 September 27, 2016.

9 In October 2016, Martin filed an Ex Parte Motion for
10 Issuance of a Writ of Execution by the United States Marshal.
11 The bankruptcy court denied the motion, finding that the debt
12 owed to the CDC arose from a restitution order which was not
13 discharged and remained a valid debt. There was thus no basis
14 for a writ of execution for recovery of Martin's property. The
15 bankruptcy court denied Martin's motion for reconsideration of
16 its decision and Martin appealed to this Panel (BAP No. AZ-17-
17 1073). The Panel dismissed the appeal for lack of jurisdiction
18 because it was late-filed.

19 In July 2017, Martin filed a Notice and Motion for
20 Registration in the Central District of California (Motion),
21 seeking to have his closed bankruptcy case transferred from the
22 District of Arizona to the Central District of California. The
23 bases for the transfer were that Martin had relocated to
24 San Bernardino County² in April 2016 and that his sole creditor,
25 CDC, continued to claim payment on the dischargeable debt and
26

27 ² Debtor is incarcerated in a private penal institution
28 located in Adelanto, California.

1 thus an adversary proceeding may be needed.

2 The bankruptcy court denied the Motion on the grounds that
3 (1) Martin's case was fully administered and closed; (2) Martin
4 was granted a discharge of all dischargeable debts; and (3) the
5 court heard and ruled on all issues of dischargeability with
6 respect to the CDC, finding its claim nondischargeable and any
7 collection efforts lawful. The court concluded that the
8 transfer of Martin's bankruptcy case would be futile when the
9 estate was fully administered and no unresolved issues remained.
10 Martin filed a timely notice of appeal from the bankruptcy
11 court's order.

12 **II. JURISDICTION**

13 The bankruptcy court had jurisdiction over this proceeding
14 under 28 U.S.C. §§ 1334 and 157(b)(1) and (2). We have
15 jurisdiction under 28 U.S.C. § 158.

16 **III. ISSUE**

17 Whether the bankruptcy court abused its discretion by
18 denying Martin's motion to transfer his closed bankruptcy case
19 from the District of Arizona to the Central District of
20 California.

21 **IV. STANDARD OF REVIEW**

22 A decision denying transfer of a bankruptcy case to another
23 district is reviewed for an abuse of discretion. Donald v.
24 Curry (In re Donald), 328 B.R. 192, 196 (9th Cir. BAP 2005).

25 A bankruptcy court abuses its discretion if it applies the
26 wrong legal standard, misapplies the correct legal standard, or
27 if its factual findings are illogical, implausible or without
28 support in inferences that may be drawn from the facts in the

1 record. See TrafficSchool.com, Inc. v. Edriver Inc., 653 F.3d
2 820, 832 (9th Cir. 2011) (citing United States v. Hinkson,
3 585 F.3d 1247, 1262 (9th Cir. 2009) (en banc)).

4 **V. DISCUSSION**

5 Rule 1014 provides in relevant part:

6 (a) Dismissal and transfer of cases

7 (1) Cases filed in proper district

8 If a petition is filed in the proper district, the
9 court, on the timely motion of a party in interest or
10 on its own motion, and after hearing on notice to the
11 petitioners, the United States trustee, and other
12 entities as directed by the court, may transfer the
13 case to any other district if the court determines
14 that the transfer is in the interest of justice or for
15 the convenience of the parties.

16 By its terms, the Rule requires a timely motion and a
17 showing that the transfer is in the interest of justice or for
18 the convenience of the parties. As the record shows,
19 substantial developments in the case rendered Martin's Motion
20 for the transfer of his case untimely filed. Martin received
21 his discharge under § 727 of all dischargeable debts and his
22 case was fully administered and closed. Further, the bankruptcy
23 court had made rulings regarding the CDC's collection of the
24 nondischargeable restitution debt. Thus, the transfer of
25 Martin's closed case from the District of Arizona to the Central
26 District of California would be futile.

27 In rendering its decision, the bankruptcy court applied the
28 correct legal standard and its factual findings were plausible
and supported by inferences drawn from the facts in the record.
Accordingly, the bankruptcy court did not abuse its discretion
by denying Martin's Motion.

VI. CONCLUSION

For the reasons stated, we AFFIRM.

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