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U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:
MONIKA LYNN KOSHINSKI,
Debtor.

BAP No. NV-26-1073-NMG

Bk. No. 24-50402-hlb

JOHN A. WHITE, JR., Executor of the
estate of Gary James Gamos,
Appellant,
v.
MONIKA LYNN KOSHINSKI; W.
DONALD GIESEKE, Chapter 7 Trustee,
Appellees.

MEMORANDUM*

Appeal from the United States Bankruptcy Court
for the District of Nevada
Hilary L. Barnes, Bankruptcy Judge, Presiding

Before: NIEMANN, MARUM,¹ and GAN, Bankruptcy Judges.

INTRODUCTION

Appellant John A. White, Jr., in his capacity as the executor of the
estate of Gary James Gamos, appeals the bankruptcy court's order

* 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 8024-1.

¹ Hon. J. Barrett Marum, United States Bankruptcy Judge for the Southern
District of California, sitting by designation.

sustaining the debtor’s objection to his proof of claim and disallowing the claim in its entirety. The claim arose from a prepetition judgment. The bankruptcy court found the judgment expired two weeks before the debtor filed her chapter 7² bankruptcy case. Mr. White argues this finding was in error because the expiration of the judgment was tolled, for 122 days, by an intervening directive from the Governor of Nevada in response to the COVID-19 pandemic.

Finding no error by the bankruptcy court, we AFFIRM.

FACTS

A. Judgment and Bankruptcy Filing

Debtor Monika Lynn Koshinski is the adopted daughter of Gary James Gamos. Prior to his death, Mr. Gamos and Ms. Koshinski had a falling out. In January 2018, Mr. Gamos sued Ms. Koshinski in Nevada state court for breach of contract related to a failed Oregon venture. A default judgment was entered against Ms. Koshinski in the amount of \$140,414.04 on April 16, 2018 (the “Judgment”).

Under Nevada state law, judgments expire after six years unless an affidavit of renewal is filed within 90 days before the date the judgment expires by limitation. NRS 11.190(1)(a), 17.214. Therefore, absent renewal, the Judgment would expire on April 16, 2024. On April 10, 2024,

² Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532. All NRS references are to the Nevada Revised Statutes.

Mr. Gamos, through his then attorney Mr. White, filed an Affidavit of Renewal of Judgment. As discussed below, it is undisputed that the Affidavit of Renewal of Judgment was defective under Nevada law.

On April 29, 2024, Ms. Koshinski filed her chapter 7 bankruptcy case (the “Petition Date”). On July 23, 2024, Ms. Koshinski received her discharge and her bankruptcy case was closed.

B. Reopening of Bankruptcy Case, Filed Claim and Objection

Mr. Gamos passed away on July 1, 2024, and Mr. White became the executor of Mr. Gamos’s estate. Although Ms. Koshinski’s bankruptcy was filed as a no-asset chapter 7 case, Ms. Koshinski became the potential recipient of an inheritance upon Mr. Gamos’s death.³ After learning of such inheritance, the United States Trustee brought an ex parte motion to reopen the bankruptcy case to administer those inheritance assets. That motion was granted and the case reopened on December 10, 2024.

A few days later, the chapter 7 trustee filed and served a notice of assets and a March 21, 2025 deadline to file proofs of claim. The only proof of claim filed was by Mr. White on behalf of Mr. Gamos’s estate (the “Claim”). The Claim was listed as a secured claim in the principal amount of \$140,414.04, but an exhibit attached to the Claim added \$41,773.18 in post-judgment interest. The Claim also attached copies of the Judgment

³ Under § 541(a)(5)(A), any assets acquired by bequest, devise, or inheritance within 180 days of a debtor’s bankruptcy petition date are property of the bankruptcy estate.

and the Affidavit of Renewal of Judgment.

In December 2025, the chapter 7 trustee brought a motion for turnover of the inheritance assets, which was granted in January 2026.

The day after the hearing on the turnover motion, Ms. Koshinski filed an objection to the Claim (the “Objection”).⁴ The Objection noted that Ms. Koshinski is the sole beneficiary of the inheritance, valued at approximately \$461,000, and the bankruptcy court had granted the chapter 7 trustee’s turnover motion. The Objection asserted the Affidavit of Renewal of Judgment was not properly executed or served in accordance with Nevada state law. In light thereof, the Objection argued the Judgment expired before the Petition Date and the Claim should be disallowed in its entirety.

Mr. White timely filed a response to the Objection (the “Response”). The Response did not refute that the renewal of the Judgment was ineffective. Instead, the Response relied solely upon an intervening directive issued by the Governor of Nevada on April 1, 2020, in response to the COVID-19 pandemic (“Directive 009”). The effect of Directive 009, per the Response, was to toll “statutory filing deadlines for 122 days” while the state of emergency was in place. “Adding 122 days to the back end of the statutory period means the statute of limitations [for the Judgment] expired

⁴ In a chapter 7 case, the trustee is typically the party bringing an objection to a proof of claim. However, when the estate is not hopelessly insolvent and the debtor may receive an estate surplus, a chapter 7 debtor has standing to object to claims under § 502(a).

August 16, 2024” —well after the Petition Date, the date upon which the claims against the estate are measured under § 502(b). In support of this argument, the Response cited *Dignity Health v. Eighth Judicial District Court*, 550 P.3d 341 (Nev. 2024), which held Directive 009 extended by 122 days the 10-year statute of limitations to file a complaint for certain injuries suffered by a child at birth.

Ms. Koshinski filed a reply in support of the Objection (the “Reply”). The Reply raised three counterarguments. First, the Reply asserted that the tolling under Directive 009 is limited to the “commencement” of a legal action and, therefore, did not apply to statutory renewals of judgments. Next, the Reply argued *Dignity Health* is factually distinguishable and does not extend to procedural renewal deadlines. In support of these related arguments, the Reply cited *Cervantes-Guevara v. Eighth Judicial District Court*, 505 P.3d 393 (Nev. 2022) (holding Directive 009 did not extend the deadline for service of process), and *Byrd v. Byrd*, 469 P.3d 186 (Nev. Aug. 14, 2020) (table) (holding Directive 009 did not extend the deadline to file a notice of appeal). Finally, the Reply argued Nevada courts require strict compliance with the judgment renewal provisions of NRS 17.214.

C. Hearing on Objection and Bankruptcy Court’s Ruling

At the hearing on the Objection, Mr. White argued on his own behalf as executor. He asserted *Cervantes-Guevara* and *Byrd* were distinguishable because those cases held that Directive 009 did not apply to extend actions required to be taken pursuant to court rules whereas a renewal of

judgment was an action required by statute. Mr. White then tried to emphasize the breadth of Directive 009 by quoting its language. However, as noted on the record, Mr. White was quoting from a prior version of Directive 009. Directive 009 was originally issued on March 31, 2020, and then promptly revised on April 1, 2020. The differences between the language of the section quoted by Mr. White, from the March 31 version, and the final, April 1, version of Directive 009 are as follows:

Any specific time limit set by state statute or regulation for the commencement, ~~filing, or service of process~~ of any legal action, ~~notice, motion, or other process or proceeding, whether promulgated by statute, ordinance, order, rule, or regulation, or part thereof,~~ is hereby tolled from the date of this Directive until 30 days from the date the state of emergency declared on March 12, 2020 is terminated.

After the bankruptcy court pointed out these differences, Mr. White insisted it did not change the analysis under *Dignity Health*, which he quoted as holding Directive 009 has an “expansive scope” applicable to “any legal action.” The bankruptcy court then asked whether Mr. White was conceding that he did not strictly comply with the requirements for renewing the Judgment. Mr. White confirmed “Right[, w]e’re conceding that.”

After a short recess, the bankruptcy court issued its ruling orally. The bankruptcy court held that *Cervantes-Guevara* confirmed the tolling provided under Directive 009 is limited to “commencing a legal action which requires a complaint.” The bankruptcy court concluded that

“Directive 009 did not apply to procedural deadlines like those set forth in [NRS] 17.214.” The order sustaining the Objection and disallowing the Claim in its entirety was entered on March 6, 2026 (the “Order”). Mr. White timely appealed.

JURISDICTION

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

ISSUES

Did the bankruptcy court err in finding Directive 009 did not extend the expiration of the Judgment?

STANDARDS OF REVIEW

Orders resolving objections to proofs of claim can raise both legal and factual issues. We review the legal issues de novo and the factual issues for clear error. *Veal v. Am. Home Mortg. Servicing, Inc. (In re Veal)*, 450 B.R. 897, 918 (9th Cir. BAP 2011). A bankruptcy court’s interpretation of state law is reviewed de novo. *Brace v. Speier (In re Brace)*, 979 F.3d 1228, 1232 (9th Cir. 2020); *Salven v. Galli (In re Pass)*, 553 B.R. 749, 756 (9th Cir. BAP 2016). “De novo review requires that we consider a matter anew, as if no decision had been made previously.” *Francis v. Wallace (In re Francis)*, 505 B.R. 914, 917 (9th Cir. BAP 2014).

DISCUSSION

This appeal presents a narrow legal issue: had the Judgment expired before the Petition Date? Mr. White’s argument on appeal rests on the

presumption that the Judgment (and therefore the Claim) was valid by application of Directive 009.⁵ More specifically, Mr. White’s argument rests on a phrase used in the *Dignity Health* decision stating that Directive 009 applied to “‘any’ pending legal action.” 550 P.3d at 333. Mr. White argues, without any citation to authority, that the “renewal of judgments is a statutory proceeding and part of a *pending* legal action” and, therefore, extended by Directive 009 through the reasoning of *Dignity Health*.

This argument is, as the bankruptcy court aptly found, contrary to the express language of the directive Mr. White seeks to have apply. The immediate revisions made on April 1, 2020, to Directive 009 were both significant and telling. The tolling was unambiguously limited to the “commencement of any legal action.” As noted in *Cervantes-Guevara*,

But [Nevada Rule of Civil Procedure] 3 specifically states that “[a] civil action is commenced by filing a complaint with the court.” As used in the rules of civil procedure, a “‘complaint’ includes a petition or other document that *initiates* a civil action.” NRCP 3, Advisory Committee Note-2019 Amendment (emphasis added).

Cervantes-Guevara, 505 P.3d at 398.⁶ The renewal of a judgment is, therefore, not the “commencement of a legal action.”

⁵ A later directive, Emergency Directive 026, fixed the tolling period effected by Directive 009 to 122 days—the time between the declaration of the beginning and end of the national emergency plus the additional 30 days provided under Directive 009.

⁶ See also *Entrust Grp. Inc. v. Hong*, 526 P.3d 1104 (Nev. March 24, 2023) (table) (holding the statutory redemption period following a nonjudicial foreclosure action was not tolled by Directive 009; the redemption was part of the legal action of the

To try to work around this clear obstacle, Mr. White argues the Nevada Supreme Court altered the scope of Directive 009 in *Dignity Health*. Mr. White emphasizes *Dignity Health* held Directive 009 applied to “any pending legal action.” Rather than emphasizing the word “any” in that phrase, however, Mr. White focuses on the word “pending.” As argued at the hearing before this Panel, Mr. White interprets the use of “pending” to mean that Directive 009 applies to any statutory or regulatory action taken in the “continuation” of a legal action, with the renewal of the Judgment being a “continuation” of the lawsuit brought by Mr. Gamos against Ms. Koshinski. In essence, Mr. White argues the addition of the word “pending” in *Dignity Health* overruled the Nevada Supreme Court’s interpretation of the “commencement of a legal action” portion of Directive 009 from its *Cervantes-Guevara* decision quoted above.

However, Mr. White’s argument plucks the “any pending legal action” phrase from the *Dignity Health* decision out of context. The full sentence is as follows:

Furthermore, Directive 009 “tolled” limitations periods for “any legal action,” a clear order that limitations periods for “any” pending legal action stop running. *See Toll, Black’s Law Dictionary* (11th ed. 2019).

foreclosure, not a separately “commenced” action); *Lall v. Corner Inv. Co.*, 2025 WL 1219010, at *2 (9th Cir. April 28, 2025) (citing *Dignity Health* for the proposition that “[t]he Nevada Governor tolled all Nevada state law claims from April 2020 to August 2020, and the Nevada Supreme Court upheld that tolling” but holding such tolling was not timely raised by the appellant in discrimination lawsuit against former employer).

Dignity Health, 550 P.3d at 343. *Dignity Health* was not expanding the application of Directive 009 beyond the “commencement of a legal action.” The sole issue in *Dignity Health* was whether the tolling afforded by Directive 009 applied “*only* to actions where the limitations period expired during the April 1 to August 1, 2020, tolling period and *not* where the statute of limitations expired sometime outside this tolling period.” *Id.* (emphasis in original). The sentence partially relied upon by Mr. White merely emphasized that the tolling period applied to the commencement of “any” legal action that might be brought—even the one at issue in *Dignity Health* that had a statute of limitations that expired after the tolled period. The Nevada Supreme Court decided Directive 009 tolled the statute of limitations in both contexts, extending the time to bring “any” state law claim.

As directed by *Dignity Health* and *Cervantes-Guevara*, principles of statutory interpretation are applied to executive orders and directives under Nevada Law. *Id.*; *Cervantes-Guevara*, 505 P.3d at 397. “If a statute’s language is plain and unambiguous, we enforce the statute as written, without resorting to the rules of construction.” *Smith v. Zilverberg*, 481 P.3d 1222, 1230 (Nev. 2021). Here, the plain language of Directive 009—as revised and final as of April 1, 2020, and as confirmed by the Nevada Supreme Court in *Dignity Health* and *Cervantes-Guevara*—only tolls the statute of limitations (or similar regulation) for the “commencement of a legal action.” Therefore, Mr. White’s reliance on *Dignity Health* to extend

the time for Mr. Gamos to renew the Judgment is misplaced. The bankruptcy court correctly ruled Directive 009 does not apply to extend the expiration of the Judgment.

CONCLUSION

For the reasons set forth above, we AFFIRM.