

08-538 SCHWAB V. REILLY

DECISION BELOW:534 F.3d 173

LOWER COURT CASE NUMBER: 06-4290

QUESTIONS PRESENTED:

The Third Circuit affirmed the United States District Court for the Middle District of Pennsylvania, which held that when the values on a debtor's list of assets and on her claim of exemptions are equal, a Chapter 7 Trustee must object to a debtor's claim of exempt property within 30 days in order to retain his statutory authority to later sell property for the benefit of creditors.

Because of the wide and contradictory array of judicial decisions construing this Court's decision in *Taylor v. Freeland & Kronz*, 503 U.S. 638, 112 S. Ct. 1644, 118 L. Ed. 2d 180 (1992), three questions are presented:

1. When a debtor claims an exemption using a specific dollar amount that is equal to the value placed on the asset by the debtor, is the exemption limited to the specific amount claimed, or do the numbers being equal operate to "fully exempt" the asset, regardless of its true value?
2. When a debtor claims an exemption using a specific dollar amount that is equal to the value placed on the asset by the debtor, must a trustee who wishes to sell the asset object to the exemptions within the thirty day period of Rule 4003, even though the amount claimed as exempt and the type of property are within the exemption statute?
3. Did the Third Circuit unconstitutionally encroach on Congress' exclusive power to legislate in the field of bankruptcy when it created new trustee duties and when it created unlimited "in kind" exemptions where the statute contains specific dollar-value limitations?

CERT. GRANTED 4/27/2009

LIMITED TO QUESTIONS 1 AND 2 PRESENTED BY THE PETITION