

Third vehicle for Debtor's 18 year old daughter to go to attend college not necessary for reorganization of Debtor

Case: 11-20132 *Weir*

Docket: Confirmation Docket on 8/24/11 Tyler Docket

Facts: This case involved an above median income debtor who was proposing to pay for three vehicles through the plan. One vehicle was being used by the Debtor to go to and from work (the Trustee had no objection to that vehicle). One vehicle was driven by the Debtor's unemployed ex-wife who was now living in the Debtor's house (the Debtor and his ex-wife were attempting to reconcile). The third vehicle was driven by the Debtor's 18 year old daughter to go to attend college (that she had not yet started) and to help drive her siblings to and from high school (band practice, football practice, and other school activities). The Trustee objected to the necessity of the third vehicle, arguing that the third vehicle was only a convenience while the Debtor argued that the third vehicle was necessary based upon the facts of the case.

Ruling: Judge Parker denied confirmation of the plan, thereby agreeing with the Trustee that the third vehicle was a convenience, not a necessity. The Court, in dictum, appeared to question the necessity of providing a vehicle for the ex-wife who was not a party to the Debtor's household.

Result: The Trustee will be looking closely at cases that provide for the payment of third vehicles or other items being paid through the plan that do not appear to be a necessity for the effective reorganization of the debtors' finances (although such vehicles or other items would be convenient to have), especially in cases filed by above median income debtors that must be in a 60 month plan. The payment for such third vehicles or other items cannot be made at the expense of the unsecured creditors.