

**NOT FOR PUBLICATION**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re  
EDWARD EARL PETTINGILL,  
  
Debtor.

Bankruptcy No. 04-05772-JM7  
Adversary No. 04-90427

IVAN BODGE,  
v. Plaintiff,  
EDWARD EARL PETTINGILL,  
Defendant.

MEMORANDUM DECISION

The plaintiff, Ivan Bodge ("Plaintiff"), brought a complaint for nondischargeability of a debt pursuant to Bankruptcy Code Section 523(a)(6). He asserted that the defendant, Edward Earl Pettingill ("Defendant"), engaged in stalking behavior that led to the Defendant being charged with a crime pursuant to Cal. Penal Code §646.9.

The Defendant pleaded "Guilty/No Contest" to a felony stalking charge in September 2003. The Plaintiff then brought a civil action against the Defendant in state court. On November 3, 2003, the state court entered a default judgment ("Judgment") in that action. On

1 April 26, 2004, the state court denied Defendant's motion to set aside  
2 the Judgment.

3 The Defendant filed for relief under Chapter 7 of the Bankruptcy  
4 Code ("Code") on June 29, 2004. The Plaintiff filed his  
5 nondischargeability complaint on September 27, 2004, and then on  
6 December 6, 2004; the Plaintiff filed a motion for summary judgment  
7 ("Motion") contending that the plea to felony stalking, as well as the  
8 underlying Judgment, supported a nondischargeability judgment under  
9 Code Section 523(a)(6).

10 Essentially, the Plaintiff's argument was that the Court should  
11 give collateral estoppel effect to the criminal plea and the civil  
12 Judgment, though he did not specifically use that term. The Defendant  
13 did not file written opposition, but he did appear at the hearing to  
14 oppose the Motion. The Motion was heard by the Court on January 20,  
15 2005, and taken under submission at that time. The Plaintiff  
16 supplemented the record on May 12, 2005, pursuant to the Court's  
17 Memorandum Decision filed on May 2, 2005.

18 The record establishes that the debt in question flows from the  
19 Defendant's criminal act under Cal. Penal Code §646.9 for stalking.  
20 That statute provides:

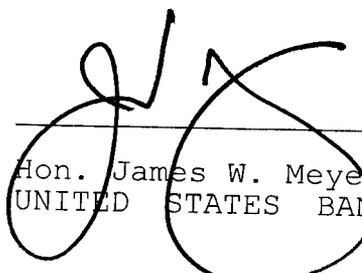
21 Any person who willfully, maliciously and repeatedly  
22 follows or willfully and maliciously harasses another  
23 person and who makes a credible threat with intent to place  
24 that person in reasonable fear for his or her safety, or  
the safety of his or her immediate family is guilty of the  
crime of stalking.

25 The Defendant pleaded "Guilty/No Contest" to a felony charge of  
26 stalking. The default judgment subsequently obtained by the Plaintiff  
27 in the civil action was based on the stalking plea. The Court is  
28 satisfied that the admission of felony stalking satisfies the

1 requirements of Bankruptcy Code Section 523(a)(6). The Plaintiff's  
2 motion for summary judgment is GRANTED.

3  
4 JUN 30 2005

5 Date: \_\_\_\_\_

6   
7 Hon. James W. Meyers  
8 UNITED STATES BANKRUPTCY JUDGE

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28