

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

KONTRICK v. RYAN**CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT**

No. 02–819. Argued November 3, 2003—Decided January 14, 2004

A creditor in Chapter 7 liquidation proceedings has “60 days after the first date set for the meeting of creditors” to file a complaint objecting to the debtor’s discharge. Fed. Rule Bkrcty. Proc. 4004(a). The bankruptcy court may extend that period “for cause” on motion “filed before the time has expired.” Fed. Rule Bkrcty. Proc. 4004(b). Reinforcing Rule 4004(b)’s restriction on extension of the Rule 4004(a) deadline, Rule 9006(b)(3) allows enlargement of “the time for taking action” under Rule 4004(a) “only to the extent and under the conditions stated in [that rule],” *i.e.*, only as permitted by Rule 4004(b).

On April 4, 1997, petitioner Kontrick filed a Chapter 7 bankruptcy petition. After gaining three successive time extensions from the Bankruptcy Court, respondent Ryan, Kontrick’s creditor, filed a complaint on January 13, 1998, objecting to Kontrick’s discharge. Ryan alleged that Kontrick had transferred property, within one year of filing his petition, with the intent to defraud creditors, and therefore did not qualify for discharge under 11 U. S. C. §§727(a)(2)–(5). Ryan filed an amended complaint on May 6, 1998, with leave of court, but without seeking or gaining a court-approved time extension. The amended complaint alleged with particularity that Kontrick had fraudulently transferred money to his wife, first by removing his own name from the family’s once-joint checking account, then by continuing regularly to deposit his salary checks into the account, from which his wife routinely paid family expenses (the “family-account” claim). Kontrick’s June 10, 1998, answer to the amended complaint did not raise the untimeliness of the family-account claim; on the merits, the answer admitted the transfers to the family account but denied that Kontrick had violated §727(a)(2)(A). In response to Ryan’s summary judgment motion, which appended a statement of

Syllabus

material facts, Kontrick cross-moved to strike portions of Ryan’s summary judgment filings, but did not ask the court to strike the amended complaint’s family-account allegations. On February 25, 2000, the Bankruptcy Court awarded Ryan summary judgment on the family-account claim, concluding that Kontrick was not entitled to discharge because his transfers to the family account were made with intent to defraud at least creditor Ryan. Kontrick then moved for reconsideration. For the first time, Kontrick urged that the court was powerless to adjudicate the family-account claim. The amended complaint containing that claim, Kontrick observed, was untimely under Rules 4004(a) and (b) and 9006(b)(3). Those rules, Kontrick maintained, establish a mandatory, unalterable time limit of the kind Kontrick called “jurisdictional.” The Bankruptcy Court denied reconsideration and entered final judgment, holding that Rule 4004’s complaint-filing time instructions are not “jurisdictional,” and that Kontrick had waived the right to assert the untimeliness of the amended complaint by failing squarely to raise the point before the court reached the merits of Ryan’s objections to discharge. The District Court sustained the denial of discharge, and the Seventh Circuit affirmed. Both courts relied on decisions of sister Circuits holding that the timeliness provisions at issue are not “jurisdictional.”

Held: A debtor forfeits the right to rely on Rule 4004 if the debtor does not raise the Rule’s time limitation before the bankruptcy court reaches the merits of the creditor’s objection to discharge. Pp. 8–15.

(a) Only Congress may determine a lower federal court’s subject-matter jurisdiction. U. S. Const., Art. III, §1. Congress did so, as pertinent here, by instructing that “objections to discharges” are “[c]ore proceedings” within the bankruptcy courts’ jurisdiction. 28 U. S. C. §157(b)(2)(J). Congress did not build time constraints into that statutory authorization. Rather, the time constraints applicable to objections to discharge are contained in Bankruptcy Rules prescribed pursuant to §2075. Such rules “do not create or withdraw federal jurisdiction.” *Owen Equipment & Erection Co. v. Kroger*, 437 U. S. 365, 370. As Bankruptcy Rule 9030 states, the Bankruptcy Rules “shall not be construed to extend or limit the jurisdiction of the courts.” The filing deadlines prescribed in Rules 4004 and 9006(b)(3) are claim-processing rules that do not delineate what cases bankruptcy courts are competent to adjudicate. Although Kontrick now concedes that those Rules are not properly labeled “jurisdictional” in the sense of describing a court’s subject-matter jurisdiction, he maintains that the Rules have the same import as provisions governing subject-matter jurisdiction. A litigant generally may raise a court’s lack of subject-matter jurisdiction at any time in the same civil action. *Mansfield, C. & L. M. R. Co. v. Swan*, 111 U. S. 379, 382. Simi-

Syllabus

larly, Kontrick urges, a debtor may challenge a creditor's objection to discharge as untimely under Rules 4004 and 9006(b)(3) at any time in the proceedings, even initially on appeal or certiorari. The equation Kontrick advances overlooks the critical difference between a rule governing subject-matter jurisdiction and an inflexible claim-processing rule. Characteristically, a court's subject-matter jurisdiction cannot be expanded to account for the parties' litigation conduct; a claim-processing rule, on the other hand, even if unalterable on a party's application, can nonetheless be forfeited if the party asserting the rule waits too long to raise the point. Pp. 8–12.

(b) No reasonable construction of complaint-processing rules would allow a litigant situated as Kontrick is to defeat a claim, as filed too late, after the party has litigated and lost the case on the merits. The relevant claim-processing rules in this case, Bankruptcy Rules 4004(a) and (b) and 9006(b)(3), include, among their primary purposes, affording the debtor an affirmative defense to a complaint filed outside the Rules 4004(a) and (b) time limits. It is uncontested that Ryan filed his complaint objecting to Kontrick's discharge outside those limits. Kontrick urges that nothing occurring thereafter counts, for the Rules' time prescriptions are unalterable, allowing no recourse to equitable exceptions. This case, however, involves no issue of equitable tolling or any other equity-based exception. Neither at the time Ryan filed the amended complaint containing the family-account claim nor anytime thereafter did he assert circumstances—equitable or otherwise—qualifying him for a time extension. The sole question is whether Kontrick forfeited his right to assert the untimeliness of Ryan's amended complaint by failing to raise the issue until after that complaint was adjudicated on the merits. In other words, how long did the affirmative defense Rules 4004(a) and (b) and 9006(b)(3) afforded Kontrick linger in the proceedings? The Seventh Circuit followed the proper path on this key question. It noted that time bars generally must be raised in an answer or responsive pleading. See Fed. Rule Civ. Proc. 8(c) (made applicable to bankruptcy court adversary proceedings by Fed. Rule Bkrcty. Proc. 7008(a)). An answer may be amended to include an inadvertently omitted affirmative defense, and even after the time to amend "of course" has passed, "leave [to amend] shall be freely given when justice so requires." Fed. Rule Civ. Proc. 15(a) (made applicable to adversary proceedings by Fed. Rule Bkrcty. Proc. 7015). Kontrick not only failed to assert the time constraints of Rules 4004(a) and (b) and 9006(b)(3) in a pleading or amended pleading responsive to Ryan's amended complaint. In addition, Kontrick moved to delete certain items from Ryan's summary judgment filings, but, even that far into the litigation, he did not ask the Bankruptcy Court to strike the fam-

Syllabus

ily-account claim. Ordinarily, a defense is lost if it is not included in the answer or amended answer. See Fed. Rule Bkrty. Proc. 7012(b) (Fed. Rules Civ. Proc. 12(b)–(h) apply in adversary proceedings). Rules 12(h)(2) and (3) prolong the life of certain defenses, but time prescriptions are not among them. Even if a defense based on Bankruptcy Rule 4004 could be equated to “failure to state a claim upon which relief can be granted,” the issue could be raised, at the latest, “at the trial on the merits.” Fed. Rule Civ. Proc. 12(h)(2). Only lack of subject-matter jurisdiction is preserved post-trial. Fed. Rule Civ. Proc. 12(h)(3). Kontrick’s resistance to the family-account claim is not of that order. Pp. 12–15.

295 F. 3d 724, affirmed.

GINSBURG, J., delivered the opinion for a unanimous Court.