Syllabus

SUPREME COURT OF THE UNITED STATES

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HAMILTON, CHAPTER 13 TRUSTEE *v.* LANNING

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

No. 08–998. Argued March 22, 2010—Decided June 7, 2010

Debtors filing for protection under Chapter 13 of the Bankruptcy Code must agree to a court-approved plan under which they pay creditors out of their future income. If the bankruptcy trustee or an unsecured creditor objects, a bankruptcy court may not approve the plan unless it provides for the full repayment of unsecured claims or "provides that all of the debtor's projected disposable income to be received" over the plan's duration "will be applied to make payments" in accordance with plan terms. 11 U. S. C. §1325(b)(1). Before enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), the Code loosely defined "disposable income." Though it did not define "projected disposable income," most bankruptcy courts calculated it using a mechanical approach, multiplying monthly income by the number of months in the plan and then determining the "disposable" portion of the result. In exceptional cases, those courts also took into account foreseeable changes in a debtor's income or expenses. BAPCPA defines "disposable income" as "current monthly income received by the debtor" less "amounts reasonably necessary to be expended" for, *e.g.,* the debtor's maintenance and support. §1325(b)(2)(A)(i). "Current monthly income," in turn, is calculated by averaging the debtor's monthly income during a 6-month look-back period preceding the petition's filing. See §101(10A)(A)(i). If a debtor's income is below the median for his or her State, "amounts reasonably necessary" include the full amount needed for "maintenance or support," see §1325(b)(2)(A)(i), but if the debtor's income exceeds the state median, only certain specified expenses are included, see §§707(b)(2), 1325(b)(3)(A).

A one-time buyout from respondent's former employer caused her current monthly income for the six months preceding her Chapter 13 petition to exceed her State's median income. However, based on the income from her new job, which was below the state median, and her expenses, she reported a monthly disposable income of $149.03. She thus filed a plan that would have required her to pay $144 per month for 36 months. Petitioner, the Chapter 13 trustee, objected to confirmation of the plan because the proposed payment amount was less than the full amount of the claims against respondent, and because she had not committed all of her "projected disposable income" to repaying creditors. Petitioner claimed that the mechanical approach was the proper way to calculate projected disposable income, and that using that approach, respondent should pay $756 per month for 60 months. Her actual income was insufficient to make such payments.

The Bankruptcy Court endorsed a $144 payment over a 60-month period, concluding that "projected" requires courts to consider the debtor's actual income. The Tenth Circuit Bankruptcy Appellate Panel affirmed, as did the Tenth Circuit, which held that a court calculating "projected disposable income" should begin with the "presumption" that the figure yielded by the mechanical approach is correct, but that this figure may be rebutted by evidence of a substantial change in the debtor's circumstances.

Held: When a bankruptcy court calculates a debtor's projected disposable income, the court may account for changes in the debtor's income or expenses that are known or virtually certain at the time of confirmation. Pp. 6–18.

(a) Respondent has the better interpretation of "projected disposable income." First, such a forward-looking approach is supported by the ordinary meaning of "projected." See *Asgrow Seed Co.* v. *Winterboer*, 513 U. S. 179, 187. In ordinary usage future occurrences are not "projected" based on the assumption that the past will necessarily repeat itself. While a projection takes past events into account, adjustments are often made based on other factors that may affect the outcome. Second, "projected" appears in many federal statutes, yet Congress rarely uses it to mean simple multiplication. See, *e.g.,* 7 U. S. C. §1301(b)(8)(B). By contrast, as the Bankruptcy Code shows, Congress can make its mandate of simple multiplication unambiguous—commonly using the term "multiplied." See, *e.g.*, 11 U. S. C. §1325(b)(3). Third, under pre-BAPCPA case law, the general rule was that courts would multiply a debtor's current monthly income by the number of months in the commitment period as the first step in determining projected disposable income, but would also have discretion to account for known or virtually certain changes in the debtor's income. This is significant, since the Court "will not read the Bankruptcy Code to erode past bankruptcy practice absent a clear indication that Congress intended such a departure," *Travelers Casualty &*

Surety Co. of America v. *Pacific Gas & Elec. Co.*, 549 U. S. 443, 454, and Congress did not amend the term "projected disposable income" in 2005. Pp. 6–10.

(b) The mechanical approach also clashes with §1325's terms. First, §1325(b)(1)(B)'s reference to projected disposable income "to be received in the applicable commitment period" strongly favors the forward-looking approach. Because respondent would have far less than $756 per month in disposable income during the plan period, petitioner's projection does not accurately reflect disposable income "to be received." In such circumstances, the mechanical approach effectively reads that phrase out of the statute. Second, §1325(b)(1)'s direction to courts to determine projected disposable income "as of the effective date of the plan,"— *i.e.,* the confirmation date—is more consistent with the view that they are to consider postfiling information about a debtor's financial situation. Had Congress intended for projected disposable income to be no more than a multiple of disposable income, it could have specified the plan's *filing* date as the effective date. Third, §1325(b)(1)(B)'s requirement that projected disposable income "will be applied to make payments" is rendered a hollow command if, as of the plan's effective date, the debtor lacks the means to pay creditors in the calculated monthly amounts. Pp. 11–12.

(c) The arguments supporting the mechanical approach are unpersuasive. The claim that the Code's detailed and precise "disposable income" definition would have no purpose without the mechanical approach overlooks the important role that this statutory formula plays under the forward-looking approach, which begins with a disposable income calculation. The Tenth Circuit's rebuttable "presumption" analysis simply heeds the ordinary meaning of "projected." This Court rejects petitioner's argument that only the mechanical approach is consistent with §1129(a)(15)(B), which refers to "projected disposable income of the debtor (as defined in section 1325(b)(2))." And the Court declines to infer from the fact that §1325(b)(3) incorporates §707—which allows courts to consider "special circumstances," but only with respect to calculating expenses—that Congress intended to eliminate, *sub silentio*, the discretion that courts previously exercised to account for known or virtually certain changes. Pp. 12–14.

(d) Petitioner's proposed strategies for avoiding or mitigating the harsh results that the mechanical approach may produce for debtors—a debtor could delay filing a petition so as to place any extraordinary income outside the 6-month period; a debtor with unusually high income during that period could seek leave to delay filing a schedule of current income and ask the bankruptcy court to select a

6-month period more representative of the debtor's future disposable income; a debtor could dismiss the petition and refile at a later, more favorable date; and respondent might have been able to obtain relief by filing under Chapter 7 or converting her Chapter 13 petition to one under Chapter 7—are all flawed. Pp. 14–18.

545 F. 3d 1269, affirmed.

ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, THOMAS, GINSBURG, BREYER, and SOTOMAYOR, JJ., joined. SCALIA, J., filed a dissenting opinion.