

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

In re:)
)
SHANNON WORTHINGTON and) Case No. 03-30665
TANYA WORTHINGTON,)
)
)
Debtors.)

MEMORANDUM OPINION

This matter comes before the Court on the Chapter 7 Trustee’s Objections to Exemptions. The Trustee argues that Shannon Worthington and Tanya Worthington (“Debtors”) inappropriately asserted \$3,300.00 in exemptions, pursuant to Mo. Rev. Stat. 513.430.1(5), claiming that a 1997 Yamaha Wave Venture 1100, and a 1992 GW Invader boat, boat accessories, and a trailer were “motor vehicles” each subject to a \$1,000.00 exemption under Missouri law. A hearing in this matter was conducted by the Court on November 20, 2003 in Carthage, Missouri, at which time the Court took the matter under advisement. After reviewing the parties’ arguments and the relevant case law, the Court is now prepared to rule that the definition of “motor vehicle” does not include “watercraft” for purposes of Missouri’s exemption laws.

In their response to the Trustee’s objection, the Debtors assert that they are entitled to exempt their personal watercraft as “motor vehicles” because they are self-propelled with a motor and steering mechanism, even though they are primarily recreational and even though they may not be operated on Missouri’s public highways.

Exemption laws are to be liberally construed in favor of the debtor to help effectuate the debtor’s fresh start. *Wallerstedt v. Sosne (In re Wallerstedt)*, 930 F.2d 630, 631-32 (8th Cir. 1991); *In re Galvin*, 158 B.R. 806, 807 (Bankr. W.D. Mo. 1993). Pursuant to Mo. Rev. Stat. § 513.430.1(5), any “motor vehicle” not to exceed \$1,000.00 in value is exempt from attachment. “Motor vehicle” is defined by statute in Missouri as “any self-propelled *vehicle* not operated exclusively on tracks, except farm tractors.” § 301.010(33) (emphasis added). Consonant with that definition, a “vehicle” is defined as “any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used

exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons.” § 301.010(64). By contrast, a “watercraft” is specifically defined by statute as “any boat or craft, including a vessel, used or capable of being used as a means of transport on waters.” § 306.015(8).

At least one other court has determined that a “watercraft” is not a “motor vehicle” for the purpose of exemption laws. *In re Barbera*, 285 B.R. 355, 357 (Bankr. D. R.I. 2002) (sustaining the trustee’s objection to the debtor’s exemption when the debtor attempted to exempt a 1979 Sea Ray cabin cruiser as a motor vehicle “in light of the traditionally separate and differing legislative treatment of land vehicles and watercraft under Rhode Island law”). Within the context of excepting debts from discharge, however, the Western District of Missouri has broadly construed the term “motor vehicle” as including a “watercraft” to give effect to the Congressional policy in excepting debts from discharge that arise out of intoxication. *Willison v. Race (In re Race)*, 192 B.R. 949, 954 (W.D. Mo. 1995) (construing the definition of “motor vehicle” in 11 U.S.C. § 523(a)(9) to include watercraft because the intent of that subsection was to “ensure that victims of the drunk driver do not have their judgments against the drunk driver discharged in bankruptcy” regardless of whether the drunk driver was operating a motor boat or a motor vehicle). *Contra Boyce v. Greenway (In re Greenway)*, 71 F.3d 1177, 1180 (5th Cir. 1996) (finding that in a case arising under 11 U.S.C. § 523(a)(9) of the Bankruptcy Code “the plain and common meaning of the term ‘motor vehicle’ does not include motorboats.”), *cert denied*, 517 U.S. 1244, 116 S. Ct. 2499, 135 L. Ed. 2d 191 (1996).

In this case, the Court is called upon to construe an exemption law and not to give effect to the Congressional policy behind excepting debts from discharge arising out of the operation of a motor vehicle while in an intoxicated condition; thus, the reasoning in *Race* has little value for the purpose of this case. Here, there is no dispute that the Debtors’ 1997 Yamaha Wave Venture 1100 and 1992 GW Invader boat and accessories are each a “watercraft” as defined by statute. While a “watercraft” can partly satisfy the definition of a “motor vehicle” inasmuch as a “watercraft” can be self-propelled and is not operated on tracks, a “watercraft” cannot satisfy the statutory requirement that a “motor vehicle” also be a “vehicle.” A “watercraft” simply is not a mechanical device designed primarily for use on the highway and a “watercraft” does not have wheels designed for use on the highway. Therefore, even giving a liberal interpretation to the exemption statute, a “watercraft” is not a “motor vehicle” for purposes of § 513.430.1(5), and the Debtors may not claim the wave runner, boat, and

trailer as exempt.¹

Accordingly, the Court will sustain the Trustee's objection to the Debtors' claim of exemptions pursuant to Mo. Rev. Stat. § 513.430.1(5) because a "watercraft" is not a "motor vehicle" under Missouri law. This opinion constitutes the Court's findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 9014. A separate order shall be entered pursuant to Fed. R. Bankr. P. 9021.

ENTERED this 11th day of December 2003.

/s/ Jerry W. Venters
HONORABLE JERRY W. VENTERS
UNITED STATES BANKRUPTCY JUDGE

A copy of the foregoing was served electronically or conventionally to:

Norman E. Rouse
Kevin Checkett

¹ This Court, construing the same statute in the case of *In re Moore*, 251 B.R. 380, 382 (Bankr. W.D. Mo. 2000), determined that an ATV was a "motor vehicle" entitled to an exemption under Mo. Rev. Stat. § 513.430.1(5). In that case, the Court reasoned that an ATV was used to carry passengers; it was allowed to be used on the public highways in certain specified instances; and it was treated as a motor vehicle for purposes of titling, perfection of liens and encumbrances, and transfers. *Id.* An ATV falls more closely within the statutory definition of a "vehicle" because it is a mechanical device on wheels designed for use on the highways. In contrast, a waverunner and boat are not capable of being operated on the highway.