

# Golf Cart Ruling Exposes Bankruptcy Exemption Law Issue

By **Brian Shaw and Christina Sanfelippo** (October 3, 2022)

In a matter of first impression not just in the U.S. Bankruptcy Court for the Western District of Oklahoma, but across the entire country, U.S. Bankruptcy Judge Janice D. Loyd came to the conclusion that a golf cart may be an exempt motor vehicle under Oklahoma state law in *In re: Smith* in July.[1]

While the lighthearted, well-written opinion should provide some psychological relief to retirees throughout the country, it also contains important lessons for the bankruptcy practitioner, including:

- The appropriate burden and judicial analysis of an objection to an exemption claim;
- That the term "motor vehicle" is not defined in most exemption statutes;
- The importance of the purpose for which the alleged motor vehicle is used by the debtor; and
- That without a statutory definition, the deciding court must turn to "[the term's] dictionary definitions and then consider the term's usage in other statutes, court decisions, and similar authorities."  
[2]



Brian Shaw



Christina Sanfelippo

Most important, however, is the implicit lesson the *Smith* opinion delivers about the need to update out-of-date state and federal exemption statutes as debtors increasingly rely on untraditional motor vehicles such as food trucks, all-terrain vehicles and motorized bicycles.

Debtors must not assume that their preferred, untraditional mode of transportation is subject to the protections afforded to exempt motor vehicles under applicable state law just because they use it for transportation, as someone — i.e., a creditor — may argue that this is not the case.[3]

And it is a lesson that will only become more relevant in the near future, as the array of personal or consumer vehicles available to the ordinary person expands to include more hybrid and all-electric vehicles, as well as motorized bicycles, skateboards and scooters, and even commuter oriented personal flying machines,[4] most, if not all of which were not contemplated when the relevant statutes were enacted.

Bobby Lee Smith filed for bankruptcy protection and on his Schedule C, Property Claimed as Exempt form, he listed his golf cart as an exempt motor vehicle under Arizona's exemption scheme.[5][6] His bankruptcy trustee objected.

At an evidentiary hearing on the trustee's objection, Smith testified that his golf cart was:

- Powered by a gas engine;

- His only means of reliable transportation for tasks such as shopping and running other errands;
- Not registered with the state Department of Motor Vehicles; and
- Driven on sidewalks, not public roadways.[7]

Judge Loyd had to determine, based on the facts and the law, whether Smith's golf cart qualified as that "one motor vehicle" that could be exempt under Title 31 of the Oklahoma Statutes, Section 1(A)(13).[8] She decided it did.[9]

The Smith court reached its decision based on its belief as to how the Oklahoma Supreme Court would decide the issue,[10] and began its analysis by noting the heavy burden placed on an objecting party, as Oklahoma's exemption statutes — as well as most other states' exemption statutes — are read liberally in favor of the debtor claiming an exemption.[11]

The court further noted that the term "motor vehicle" is undefined in Oklahoma's exemption statute.[12] The Smith court then focused on two criteria.

First, the court looked to dictionary definitions of the term "motor vehicle" and of similar terms, and considered the term's usage in other statutes, court decisions and similar authorities.[13]

Second, the court considered how the golf cart was used by the debtor, noting that the debtor relied on his golf cart as his only method of transportation and that he does not golf.[14]

Ultimately, the court concluded that the debtor's use of the golf cart appeared to bring it within the definition of a "motor vehicle" and that allowing the exemption would be consistent with the Oklahoma Supreme Court's previously stated purpose of the state's exemption scheme: To enable debtors to retain enough specified property to maintain a home for themselves and the necessities of life.[15]

Finally, the court rejected the objecting party's narrow interpretation of "motor vehicle," stating that the limiting definitions of "motor vehicle" contained in various Oklahoma health and safety statutes — such as those prohibiting drunk driving and ensuring safety on public roadways — served an entirely different statutory scheme than that set forth in the state's exemption statutes, and were not dispositive.[16]

At first blush, the Smith decision is a well-reasoned, good result that follows the spirit of the Oklahoma exemption scheme.

At second blush however, it exposes an ever-increasing problem and future issue with most states' vehicle exemption statutes — which is that the statutes do not address more modern technology that tests the traditional concept of a motor vehicle and increases the types of mechanized assets that people rely on for transportation in their daily lives.

The golf cart at issue in Smith is a classic example. What was seen historically as a mode of leisure transportation on golf courses and resorts is now a primary mode of transportation in baby boomer filled retirement, and other communities through the country.[17]

Yet, in order to reach an appropriate result, i.e. one consistent with a state's exemption

scheme, the Smith court had to perform legal gymnastics, examining dictionary definitions, the terms use in other statutes, and the statute's legislative intent, to reach its conclusion.[18]

It was not a perfect path, and one that will only get more complicated in the future as more and more untraditional modes of daily transportation become commonplace.

For example, already, city streets are filled with people riding motorized bicycles, skateboards and scooters for their daily commute. Regular stories appear about the advent of personal flying vehicles, and about whether those will be the congestion relieving wave of the future.[19]

As the types of vehicles people rely on for transportation drift further away from the traditional motor vehicle, the legal gymnastics bankruptcy judges may need to perform to protect the debtor's mode of transportation may become more difficult — unless those exemption statutes are updated to reflect our ever-evolving modes of transportation.

---

*Brian L. Shaw is a member and Christina M. Sanfelippo is an associate at Cozen O'Connor.*

*The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.*

[1] In re Smith, --- B.R. ----, 2022 WL 3023209, at \*4 (Bankr. W.D. Okla. July 28, 2022).

[2] Id. at \*2.

[3] See e.g., In re Moore, 251 B.R. 380 (Bankr. W.D. Mo. 2000) (ATV qualified as "motor vehicle" within meaning of Missouri exemption statute); but see In re Bosworth, 449 B.R. 104 (Bankr. D. Idaho 2011) (ATV did not qualify as "motor vehicle" under Idaho exemption statute).

[4] See, e.g., Jetson, <https://www.jetsonaero.com/jetson-one>. Jetson produces the Jetson ONE, a recreational all-electric personal vertical take-off and landing (VTOL) aircraft—a flying car that does not require piloting certification.

[5] See Smith, 2022 WL 3023209, at \*1; see also Okla. Stat. Ann. tit. 31, § 1(A)(13) (exempting "[s]uch person's interest, not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00) in value, in one motor vehicle[.]").

[6] Because Oklahoma has opted out of the federal bankruptcy exemption scheme, the debtor could only claim exemptions available under Oklahoma law. See 11 U.S.C. § 522(b)(1); see also 31 O.S. § 1.B.

[7] See Smith, 2022 WL 3023209, at \*1.

[8] Id.

[9] Id. at \*2-\*3.

[10] Id. at \*4.

[11] Id. at \*2.

[12] Id. This is a common issue in many states' exemption statutes.

[13] See id. (citing to Merriam-Webster's College Dictionary 11th ed. for the definition of a "motor vehicle" as "an automotive vehicle not operated on rails" and a "vehicle" as a "means of carrying or transporting something.").

[14] Id. at \*1, \*2.

[15] Id. at \*3.

[16] Id.

[17] See, e.g., David Zipper, *Why golf carts – golf carts! – are a transportation mode of the future*, SLATE, August 15, 2022, <https://slate.com/business/2022/08/golf-carts-transportation-future-peachtree-city.html>.

[18] Smith, --- B.R. ----, 2022 WL 3023209.

[19] See, fn. 4, *infra*.