Until recently, the underlying purpose of a particular cost has rarely been a substantial part of chapter 7 dischargeability analysis. A wide variety of fees and costs, serving many very different purposes and paying many different entities, are often lumped together when reviewed for nondischargeability. For this reason, courts have generally held that financial obligations labeled simply as “costs” in criminal cases are excepted from discharge. However, when costs are broken down into their constituent components, partial discharge may be possible. In at least one case, service fees attached to a parking fine were held to be dischargeable.

In re Lopez illustrates the problem. The bankruptcy court originally determined that, given the expansiveness of Kelly, any costs associated with a criminal adjudication were not dischargeable in chapter 7 bankruptcy. The court did not examine the underlying purposes of the costs and further disregarded state law that held costs “are not part of the sentence.” However, the Third Circuit vacated and remanded the case to the bankruptcy court to develop the record on the purpose of each of the costs assessed. On remand, the bankruptcy court found collection costs, lien filing fees, and probation fees to be dischargeable, given state law interpreting these charges as merely compensatory.

Footnotes


303 [309] Id.


305 [311] In re Lopez, 531 B.R. 554 (Bankr. E.D. Pa. 2015). See also In re Miller, 511 B.R. 621 (Bankr. W.D. Mo. 2014) (criminal probation costs had compensatory rather than penal purpose, so were dischargeable).