

Texas Homestead Proceeds Rule

Case	Ch	Facts	Holding
White v. Stump , 266 U.S. 310 (1924).	7	Debtor attempted to file a homestead declaration pursuant to state law after filing bankruptcy.	<u>Snapshot Rule</u> . The Court held that because the property had not been declared exempt under Idaho law prior to the filing for bankruptcy, it was not exempt under state law and thus passed to the trustee for the benefit of creditors. The Court said, “the point of time which is to separate the old situation from the new in the bankrupt’s affairs is the date the petition is filed.”
Myers v. Matley , 318 U.S. 622 (1943).	7	Debtor filed the required homestead declaration after the bankruptcy was filed.	<u>Expansion of Snapshot Rule</u> . Under Nevada state law, a declaration of homestead would be effective as against a creditor to prevent a judicial sale of the property if made and recorded after levy but before sale. Thus, declaration was effective against creditors.
Owen v. Owen , 500 U.S. 305 (1991).	7	Debtor, after entry of discharge, moved to reopen case to avoid judgment lien of creditor as impairing homestead exemption under Florida law.	Per § 522(f), judicial lien may be avoided. (Exemptions are determined at the time of filing and do not change due to subsequent events).
In re England , 975 F.2d 1168 (5th Cir. 1992).	7	Debtor claimed both his ranch and proceeds from the sale of a former homestead as exempt property under Texas law.	<u>Tex. Prop. Code § 41.001(c)</u> . The proceeds from the sale of a homestead are exempt for 6 months but when one acquires a new homestead, the proceeds of the sale of that former homestead lose their homestead character and become proceeds of a former homestead which are no longer exempt.

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In re Reed , 184 B.R. 733 (Bankr. W.D. Tex. 1995).	7	Debtors filed chapter 11, exempted the homestead per § 522(c) and then sold the homestead for cash and a note. Debtors then purchased a new home. Debtors' case was converted to chapter 7. Thereafter, the note on Debtors' previous homestead was satisfied by the buyer and the proceeds were distributed to various parties. Trustee sued to avoid post-petition transfers.	The post-petition transformation of exempt property into a form of property which would not be exempt under state law does not return the property to the estate.
In re Zibman , 268 F.3d 298 (5th Cir. 2001).	7	Debtor sold homestead pre-petition and held onto the proceeds, then filed bankruptcy and did not invest the proceeds into another home within 6 months as required by Tex. Prop. Code 41.001.	When the debtors failed to invest the proceeds from their homestead in another Texas homestead within the allotted time, the exemption on these proceeds evanesced by operation of law.
In re Zavala , 366 B.R. 643 (Bankr. W.D. Tex. 2007).	13	Debtors filed chapter 13, husband died, Debtor sold homestead and moved into a rental home owned by Debtors, claiming it as new homestead. Debtor netted approximately \$55k cash in sales proceeds after paying off the mortgage on the rental property. Debtor paid Trustee lump sum for remaining payments on chapter 13 plan. Trustee moved to modify the plan to a 100% plan arguing Debtor did not reinvest proceeds within 6 months.	If a debtor purchases a new Texas homestead within 6 months of selling the previous homestead, any remaining proceeds from the sale of the first homestead are instantly rendered non-exempt. Thus, the portion of the proceeds not reinvested into the rental property were non-exempt.

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In re Morgan , 481 Fed. App'x. 183 (5th Cir. 2012).	7	Debtor filed bankruptcy, then sold his house and filed schedules seeking federal exemptions but did not exempt the value of his home. 7 months after filing bankruptcy, Debtor amended his schedules, now seeking Texas exemptions and a \$100,000 exemption for his home. Trustee objected on the basis that the proceeds of the sale were not reinvested within 6 months. The district court held that because Debtor owned his homestead when he filed his bankruptcy petition, the proceeds from the post-petition sale of the homestead were exempt from the bankruptcy estate, even though he did not reinvest them in a new Texas homestead within 6 months of the sale.	The Fifth Circuit reversed the district court because Debtor did not claim an exemption for his homestead until after he sold his home. When Debtor filed his bankruptcy petition and did not claim an exemption for his Texas homestead, that property passed by operation of law into the bankruptcy estate pursuant to 11 U.S.C. § 541(a). When Debtor later sold his home, the proceeds of that sale, and not the homestead itself, were the property of the estate. 11 U.S.C. § 541(a)(6). Thus, when Debtor subsequently amended his exemption schedule 7 months in, it was against those proceeds that Debtor had to make his exemption claim.
In re D'Avila , 498 B.R. 150 (Bankr. W.D Tex. 2013).	7	Chapter 7 Debtor properly exempted her homestead and sold it post-petition, after the expiration of time to object to her state exemptions but did not reinvest in a new homestead within 6 months of sale. Trustee argued that the proceeds were not exempt pursuant to Tex. Prop. Code § 41.001(c).	Unlike the Texas Proceeds Rule of § 41.001(c), the homestead exemption of § 41.001(a) is not limited in time. In a chapter 7 case, the best application of the Snapshot Rule (see <i>White & Myers</i> above) is that once an exemption has been duly claimed on a homestead, the proceeds that result from a post-petition, post-exemption sale of that homestead are not subject to later recovery by the bankruptcy estate under the Texas Proceeds Rule. Thus, when a debtor holds a homestead at time of filing, it simply is not necessarily pictured in the post-petition snapshot.

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In re Frost, 744 F.3d 384 (5th Cir. 2014).	13	Debtor filed bankruptcy then sold his homestead but did not reinvest the proceeds into new Texas homestead within 6 months. Debtor challenged the district court's determination that proceeds from the post-certification sale of an exempted homestead revert to the estate if not reinvested within 6 months, arguing that once the homestead is permanently exempted from the estate, any proceeds from its sale are also exempt.	Once Debtor sold his homestead, the essential character of the homestead changed from "homestead" to "proceeds," placing it under Tex. Prop. Code § 41.001(c)'s 6 month exemption. Because he did not reinvest those proceeds within that time period, they are removed from the protection of Texas bankruptcy law and no longer exempt from the estate.
Cage v. Smith, 12-32096, 2014 WL 3858322 (Bankr. S.D. Tex. Aug. 4, 2014).	7	Debtor exempted the property as his homestead under Texas law, and neither Trustee nor creditor filed an objection to the homestead exemption. Later, Debtor sold the property but did not reinvest the proceeds within 6 months of the sale. Trustee then sought turnover of the proceeds on the basis that proceeds are non-exempt and therefore property of Debtor's chapter 7 estate.	The property of Debtor's bankruptcy estate included a non-exempt asset that was both prospective and contingent. <i>Frost</i> applies to this chapter 7 case and the proceeds became non-exempt the 181st day after the sale of the property.

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In re Woerner , 483 B.R. 106 (Bankr. W.D. Tex. 2012)	7	Creditors objected to exemptions claimed by chapter 7 debtor, and debtor challenged the timeliness of creditors' objections.	This Court finds that the "non-restrictive rule," which stipulates that a party in interest may object to any claimed exemption within 30 days of an amendment to the schedules, is the better interpretation of Rule 4003 and holds that creditors' objection was timely because it was filed within 30 days of debtor's most recent amended schedules.
In re Montemayor , 547 B.R. 684 (Bankr. S.D. Tex. 2016).	7	Debtor owned a homestead at time of filing, properly exempted it using Texas exemptions and sold it after the time had expired to object to exemptions. Debtor sold the home post-petition and part of the proceeds went to purchase raw land and to making some improvements, but \$58,700 was never used on a new homestead within 6 months.	The Court found that the conclusions drawn from <i>Reed</i> , and its progeny, <i>D'Avila</i> and <i>DeBerry</i> is the proper interpretation of § 41.001's application in a chapter 7 bankruptcy, the effect of § 522(c), and § 541(a)(6)–(7) and adopts them to the extent that they apply to a post-petition sale of a properly exempted Texas homestead. <i>Frost</i> 's core holding is based on factually distinguishable underpinnings and, as such, is distinguishable in a chapter 7 where, such as here, Debtor sells a properly exempted homestead post-petition. <i>Frost</i> does not apply in the instant chapter 7 because to the extent that <i>Frost</i> could apply is really to say that the precedent upon which it is based, such as <i>England</i> , <i>Zibman</i> and <i>Morgan</i> (dealt with only proceeds) are what is being applied and not <i>Frost</i> . Debtor's failure to reinvest in another homestead with proceeds from sale of debtor's former homestead within the 6-month period specified in the Texas homestead statute did not necessitate turnover of the proceeds to the trustee.

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In re Stanford , 573 B.R. 205 (Bankr. W.D. Tex. 2017).	7	Debtors, who had interest in the property, claimed property as homestead until it was sold pursuant to agreement with other interest holders. Upon learning of the potential sale, judgment creditor moved to foreclose on debtors' homestead to satisfy its pre-existing judgment lien.	Texas homestead law does not require immediate physical possession of property for it to qualify as a homestead. As long one establishes overt acts of homestead use and intent to occupy the property as their homestead, the property is "immediately impressed with the homestead characterization" and the judgment lien does not attach.
Matter of De-Berry , 884 F.3d 526 (5th Cir. 2018).	7	Debtor held a homestead at time of filing, properly exempted it using Texas exemptions and sold it after the time had expired to object to exemptions. Debtor sold the homestead post-petition and failed to reinvest the proceeds into another qualifying Texas homestead but instead transferred the money to his wife and a law firm who represented him in a criminal matter.	Debtor who owned homestead property on date that his chapter 7 petition was filed and claimed a homestead exemption therein to which no objection was filed, thereby removing homestead property from bankruptcy estate, could sell homestead property post-petition without subjecting homestead proceeds to administration by trustee if he did not reinvest them in another homestead within 6 months of this post-petition sale.
Matter of Lopez , 897 F.3d 663 (5th Cir. 2018).	13	After trustee moved to modify debtors' confirmed Chapter 13 plan to compel debtors to turn over proceeds from post-petition sale of their home for distribution to unsecured creditors, debtors moved to voluntarily dismiss their chapter 13 case.	Under Code § 349(b)(3), which provides that, unless "the court, for cause, orders otherwise," the dismissal of a bankruptcy case "revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case," non-exempt homestead proceeds that chapter 13 debtors acquire post-petition generally vest in the debtors upon voluntary dismissal of the case.

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Viegelahn v. Lopez (In re Lopez) , 897 F.3d 663 (5th Cir. 2018).	13	Debtors sold their homestead and did not use sale proceeds to purchase another home within 6 months of sale. Debtors voluntarily dismissed their case, believing they would receive all of their homestead proceeds as an alternative to discharge. The district court disagreed, holding that proceeds should remain with Trustee for distribution to creditors in dismissed case.	Fifth Circuit held that under § 349(b)(3), proceeds from a post-petition sale of a debtor's exempt homestead generally must be returned to the debtor upon voluntary dismissal.
Williams v. Farris (In re Farris) , 2021 WL 1289672 (Bankr. S.D. Tex. 2021).	13	Debtor sold his homestead during bankruptcy. Plaintiffs brought a turnover action against Debtor and the purchaser of the property. Plaintiffs argued that a prior judgment attached to the proceeds of the sale. Plaintiffs claimed that they were entitled to three categories of alleged proceeds: (i) the cash proceeds, (ii) the promissory note for part of the payments, and (iii) the discounted sale price.	(i) A claim against cash proceeds does not alter the homestead status of the property, and purchasers were not liable to Plaintiffs for the proceeds paid to Debtor. (ii) The evidence did not reveal if purchasers had made mortgage payments as required by the note. If purchasers did not pay off the note, then the note constituted proceeds from the sale of a homestead. That sale was more than 6 months ago and therefore, Plaintiffs would be entitled to the value of the note. (iii) The discount is not proceeds under Texas state law. Even if it was, Plaintiffs would need more than speculative evidence alleging that the discount was on behalf of a debt.
In re Pope , case no. 23-30283, Bankr. S.D. Tex. (J. Norman), 9/16/24 (appeal pending as of 1/2/25)	7	Pre-bankruptcy, while living in homestead, wife used retirement funds to purchase raw land. With a construction loan, husband and wife built new house on raw land and moved into new house. Then husband and wife sold the first home and used the funds to pay off the construction loan on the new house. Then they filed bankruptcy.	The best evidence of abandonment of a homestead is that a new permanent home has been acquired and occupied. Debtors abandoned the first homestead before selling it. Therefore, the sale proceeds from the first home were not exempt under the 6-month rule. The debtors' use of the non-exempt sale proceeds to pay down the construction loan on the new homestead triggered 11 USC 522(o) (transfers into homestead with intent to hinder, delay, or defraud).