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SUPREME COURT OF THE UNITED STATES

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**STERN, EXECUTOR OF THE ESTATE OF MARSHALL
v. MARSHALL, EXECUTRIX OF THE ESTATE OF
MARSHALL****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT**

No. 10–179. Argued January 18, 2011—Decided June 23, 2011

Article III, §1, of the Constitution mandates that “[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish,” and provides that the judges of those constitutional courts “shall hold their Offices during good Behaviour” and “receive for their Services[] a Compensation[] [that] shall not be diminished” during their tenure. The questions presented in this case are whether a bankruptcy court judge who did not enjoy such tenure and salary protections had the authority under 28 U. S. C. §157 and Article III to enter final judgment on a counterclaim filed by Vickie Lynn Marshall (whose estate is the petitioner) against Pierce Marshall (whose estate is the respondent) in Vickie’s bankruptcy proceedings.

Vickie married J. Howard Marshall II, Pierce’s father, approximately a year before his death. Shortly before J. Howard died, Vickie filed a suit against Pierce in Texas state court, asserting that J. Howard meant to provide for Vickie through a trust, and Pierce tortiously interfered with that gift. After J. Howard died, Vickie filed for bankruptcy in federal court. Pierce filed a proof of claim in that proceeding, asserting that he should be able to recover damages from Vickie’s bankruptcy estate because Vickie had defamed him by inducing her lawyers to tell the press that he had engaged in fraud in controlling his father’s assets. Vickie responded by filing a counterclaim for tortious interference with the gift she expected from J. Howard.

The Bankruptcy Court granted Vickie summary judgment on the defamation claim and eventually awarded her hundreds of millions of dollars in damages on her counterclaim. Pierce objected that the

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Bankruptcy Court lacked jurisdiction to enter a final judgment on that counterclaim because it was not a “core proceeding” as defined by 28 U. S. C. §157(b)(2)(C). As set forth in §157(a), Congress has divided bankruptcy proceedings into three categories: those that “aris[e] under title 11”; those that “aris[e] in” a Title 11 case; and those that are “related to a case under title 11.” District courts may refer all such proceedings to the bankruptcy judges of their district, and bankruptcy courts may enter final judgments in “all core proceedings arising under title 11, or arising in a case under title 11.” §§157(a), (b)(1). In non-core proceedings, by contrast, a bankruptcy judge may only “submit proposed findings of fact and conclusions of law to the district court.” §157(c)(1). Section 157(b)(2) lists 16 categories of core proceedings, including “counterclaims by the estate against persons filing claims against the estate.” §157(b)(2)(C).

The Bankruptcy Court concluded that Vickie’s counterclaim was a core proceeding. The District Court reversed, reading this Court’s precedent in *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U. S. 50, to “suggest[] that it would be unconstitutional to hold that any and all counterclaims are core.” The court held that Vickie’s counterclaim was not core because it was only somewhat related to Pierce’s claim, and it accordingly treated the Bankruptcy Court’s judgment as proposed, not final. Although the Texas state court had by that time conducted a jury trial on the merits of the parties’ dispute and entered a judgment in Pierce’s favor, the District Court went on to decide the matter itself, in Vickie’s favor. The Court of Appeals ultimately reversed. It held that the Bankruptcy Court lacked authority to enter final judgment on Vickie’s counterclaim because the claim was not “so closely related to [Pierce’s] proof of claim that the resolution of the counterclaim is necessary to resolve the allowance or disallowance of the claim itself.” Because that holding made the Texas probate court’s judgment the earliest final judgment on matters relevant to the case, the Court of Appeals held that the District Court should have given the state judgment preclusive effect.

Held: Although the Bankruptcy Court had the statutory authority to enter judgment on Vickie’s counterclaim, it lacked the constitutional authority to do so. Pp. 6–38.

1. Section 157(b) authorized the Bankruptcy Court to enter final judgment on Vickie’s counterclaim. Pp. 8–16.

(a) The Bankruptcy Court had the statutory authority to enter final judgment on Vickie’s counterclaim as a core proceeding under §157(b)(2)(C). Pierce argues that §157(b) authorizes bankruptcy courts to enter final judgments only in those proceedings that are both core and either arise in a Title 11 case or arise under Title 11 it-

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self. But that reading necessarily assumes that there is a category of core proceedings that do not arise in a bankruptcy case or under bankruptcy law, and the structure of §157 makes clear that no such category exists. Pp. 8–11.

(b) In the alternative, Pierce argues that the Bankruptcy Court lacked jurisdiction to resolve Vickie’s counterclaim because his defamation claim is a “personal injury tort” that the Bankruptcy Court lacked jurisdiction to hear under §157(b)(5). The Court agrees with Vickie that §157(b)(5) is not jurisdictional, and Pierce consented to the Bankruptcy Court’s resolution of the defamation claim. The Court is not inclined to interpret statutes as creating a jurisdictional bar when they are not framed as such. See generally *Henderson v. Shinske*, 562 U. S. ____; *Arbaugh v. Y & H Corp.*, 546 U. S. 500. Section 157(b)(5) does not have the hallmarks of a jurisdictional decree, and the statutory context belies Pierce’s claim that it is jurisdictional. Pierce consented to the Bankruptcy Court’s resolution of the defamation claim by repeatedly advising that court that he was happy to litigate his claim there. Pp. 12–16.

2. Although §157 allowed the Bankruptcy Court to enter final judgment on Vickie’s counterclaim, Article III of the Constitution did not. Pp. 16–38.

(a) Article III is “an inseparable element of the constitutional system of checks and balances” that “both defines the power and protects the independence of the Judicial Branch.” *Northern Pipeline*, 458 U. S., at 58 (plurality opinion). Article III protects liberty not only through its role in implementing the separation of powers, but also by specifying the defining characteristics of Article III judges to protect the integrity of judicial decisionmaking.

This is not the first time the Court has faced an Article III challenge to a bankruptcy court’s resolution of a debtor’s suit. In *Northern Pipeline*, the Court considered whether bankruptcy judges serving under the Bankruptcy Act of 1978—who also lacked the tenure and salary guarantees of Article III—could “constitutionally be vested with jurisdiction to decide [a] state-law contract claim” against an entity that was not otherwise part of the bankruptcy proceedings. *Id.*, at 53, 87, n. 40 (plurality opinion). The plurality in *Northern Pipeline* recognized that there was a category of cases involving “public rights” that Congress could constitutionally assign to “legislative” courts for resolution. A full majority of the Court, while not agreeing on the scope of that exception, concluded that the doctrine did not encompass adjudication of the state law claim at issue in that case, and rejected the debtor’s argument that the Bankruptcy Court’s exercise of jurisdiction was constitutional because the bankruptcy judge was acting merely as an adjunct of the district court or court of appeals.

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Id., at 69–72; see *id.*, at 90–91 (Rehnquist, J., concurring in judgment). After the decision in *Northern Pipeline*, Congress revised the statutes governing bankruptcy jurisdiction and bankruptcy judges. With respect to the “core” proceedings listed in §157(b)(2), however, the bankruptcy courts under the Bankruptcy Amendments and Federal Judgeship Act of 1984 exercise the same powers they wielded under the 1978 Act. The authority exercised by the newly constituted courts over a counterclaim such as Vickie’s exceeds the bounds of Article III. Pp. 16–22.

(b) Vickie’s counterclaim does not fall within the public rights exception, however defined. The Court has long recognized that, in general, Congress may not “withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty.” *Murray’s Lessee v. Hoboken Land & Improvement Co.*, 18 How. 272, 284. The Court has also recognized that “[a]t the same time there are matters, involving public rights, . . . which are susceptible of judicial determination, but which congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper.” *Ibid.* Several previous decisions have contrasted cases within the reach of the public rights exception—those arising “between the Government and persons subject to its authority in connection with the performance of the constitutional functions of the executive or legislative departments”—and those that are instead matters “of private right, that is, of the liability of one individual to another under the law as defined.” *Crowell v. Benson*, 285 U. S. 22, 50, 51.

Shortly after *Northern Pipeline*, the Court rejected the limitation of the public rights exception to actions involving the Government as a party. The Court has continued, however, to limit the exception to cases in which the claim at issue derives from a federal regulatory scheme, or in which resolution of the claim by an expert Government agency is deemed essential to a limited regulatory objective within the agency’s authority. In other words, it is still the case that what makes a right “public” rather than private is that the right is integrally related to particular Federal Government action. See *United States v. Jicarilla Apache Nation*, 564 U. S. ___, ___–___ (slip op., at 10–11); *Thomas v. Union Carbide Agricultural Products Co.*, 473 U. S. 568, 584; *Commodity Futures Trading Commission v. Schor*, 478 U. S. 833, 844, 856.

In *Granfinanciera, S. A. v. Nordberg*, 492 U. S. 33, the most recent case considering the public rights exception, the Court rejected a bankruptcy trustee’s argument that a fraudulent conveyance action filed on behalf of a bankruptcy estate against a noncreditor in a bankruptcy proceeding fell within the exception. Vickie’s counter-

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claim is similar. It is not a matter that can be pursued only by grace of the other branches, as in *Murray's Lessee*, 18 How., at 284; it does not flow from a federal statutory scheme, as in *Thomas*, 473 U. S., at 584–585; and it is not “completely dependent upon” adjudication of a claim created by federal law, as in *Schor*, 478 U. S., at 856. This case involves the most prototypical exercise of judicial power: the entry of a final, binding judgment *by a court* with broad substantive jurisdiction, on a common law cause of action, when the action neither derives from nor depends upon any agency regulatory regime. If such an exercise of judicial power may nonetheless be taken from the Article III Judiciary simply by deeming it part of some amorphous “public right,” then Article III would be transformed from the guardian of individual liberty and separation of powers the Court has long recognized into mere wishful thinking. Pp. 22–29.

(c) The fact that Pierce filed a proof of claim in the bankruptcy proceedings did not give the Bankruptcy Court the authority to adjudicate Vickie’s counterclaim. Initially, Pierce’s defamation claim does not affect the nature of Vickie’s tortious interference counterclaim as one at common law that simply attempts to augment the bankruptcy estate—the type of claim that, under *Northern Pipeline* and *Granfinanciera*, must be decided by an Article III court. The cases on which Vickie relies, *Katchen v. Landy*, 382 U. S. 323, and *Langenkamp v. Culp*, 498 U. S. 42 (*per curiam*), are inapposite. *Katchen* permitted a bankruptcy referee to exercise jurisdiction over a trustee’s voidable preference claim against a creditor only where there was no question that the referee was required to decide whether there had been a voidable preference in determining whether and to what extent to allow the creditor’s claim. The *Katchen* Court “intimate[d] no opinion concerning whether” the bankruptcy referee would have had “summary jurisdiction to adjudicate a demand by the [bankruptcy] trustee for affirmative relief, all of the substantial factual and legal bases for which ha[d] not been disposed of in passing on objections to the [creditor’s proof of] claim.” 382 U. S., at 333, n. 9. The *per curiam* opinion in *Langenkamp* is to the same effect. In this case, by contrast, the Bankruptcy Court—in order to resolve Vickie’s counterclaim—was required to and did make several factual and legal determinations that were not “disposed of in passing on objections” to Pierce’s proof of claim. In both *Katchen* and *Langenkamp*, moreover, the trustee bringing the preference action was asserting a right of recovery created by federal bankruptcy law. Vickie’s claim is instead a state tort action that exists without regard to any bankruptcy proceeding. Pp. 29–34.

(d) The bankruptcy courts under the 1984 Act are not “adjuncts” of the district courts. The new bankruptcy courts, like the courts

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