

Case No. 7,463.

JONES v. GRAY.

{3 Woods, 494.}<sup>1</sup>

Circuit Court, N. D. Georgia.

Sept., 1876.

EXEMPTION—HEAD OF A FAMILY.

An unmarried man who lives (but does not keep house) in one town, and supports, by his contributions, his mother and his unmarried sister, who board with his married sister in another town, is not entitled to the exemptions allowed by the law of Georgia to the head of a family.

[In review of the action of the district court for the Northern district of Georgia.

[This was a suit in bankruptcy by Edgar E. Jones against Sylvester Gray.]

John T. Glenn, for petitioner.

E. N. Broyles, for objecting creditor.

WOODS, Circuit Judge. The question presented by this petition is, whether the bankrupt is entitled to the exemptions allowed by the Code of Georgia, as the head of a family. The bankrupt, at the date of his bankruptcy, was, and now is, an unmarried man, residing in Athens, Georgia, but not keeping house there. He has a mother and an unmarried sister, twenty years of age, who are boarding with a married sister of the bankrupt, in Augusta, Georgia. The mother and unmarried sister have no means of support, and the bankrupt, since the year 1872, has supported them by his contributions, but it does not appear that they are unable to maintain themselves by labor. Under this state of facts, can the bankrupt be called the “head of a family”? We think not. The supreme court of Georgia has given a very liberal construction to the phrase, “head of a family.” In *Marsh v. Lazenby*, 41 Ga. 153, it was held that “an unmarried man, whose indigent mother and sisters live with him, and are supported by him is the ‘head of a family,’ in the sense in which the term is used by the constitution of the state, and is entitled to a homestead.” But this definition, liberal as it is, does not include the case of the bankrupt, for the mother and sister of the bankrupt do not live with him. He, a single man, without family of his own, lives in one town, and supports, by his contributions, his mother and unmarried sister, who live in another town, and are inmates of the family of a married sister of the bankrupt. To call a man, so situated, the “head of a family,” is, in my opinion, unwarrantably extending the meaning of the phrase. The bankrupt and his mother and unmarried sister do not constitute a family; the bankrupt cannot, therefore, be the head of a family, for “a family

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is a collective body of persons, who live in one house, and under one head or manager.”  
Webst Diet. I agree in opinion with the district court, that the bankrupt is not the head  
of a family, and is not, therefore, entitled to the exemptions allowed the head of a family.

<sup>1</sup> [Reported by Hon. William B. Woods, Circuit Judge, and here reprinted by permission.]