

IN RE REDFIELD.

[2 Ben. 71.]¹

District Court, E. D. New York.

Dec, 1867.

BANKRUPTCY—LIMITATION OF COSTS—MISSTATEMENT IN PETITION.

Where a bankrupt applied, under the 30th rule, for an order that the costs should not exceed the sum deposited with the clerk, and, on being examined, testified to certain sums, expended by him for his subsistence during the past year, all of which were borrowed and still unpaid, but his petition contained no statement of such indebtedness: *Held*, that if his testimony was true, no discharge could be granted on his petition in its present condition. The present application must be denied.

{In the matter of Justus S. Redfield, a bankrupt. This was a hearing on petition for an order directing that the fees and costs shall not exceed the amount of the deposit. The court refused the application, except after the personal examination of the bankrupt as to his means. Case No. 11,628. The case is now heard upon the examination.}

BENEDICT, District Judge. This is an application on the part of the bankrupt, under the 30th rule, for an order directing that the costs and fees of his proceedings should not exceed the sum deposited with the clerk under the act [of 1867 (14 Stat. 517)]. Under what is deemed a proper practice upon all applications of this description, the petitioner was directed to appear and be examined orally as to his inability to pay costs, and also as to the extent of his actual interest in the amount of the costs. The petitioner, being examined accordingly, testifies, among other things, to certain sums expended by him for his subsistence during the past year, all which he declares to have been borrowed, and to be still unpaid. His petition, however, which is also sworn to, and purports

to set forth all his indebtedness, makes no disclosure of any such indebtedness. If, then, the testimony, upon which this application is based, is true, no discharge could be granted upon the petition in its present condition. It may be that the omission in the petition was the result of mistake, but it cannot be allowed to pass unnoticed. Petitions in bankruptcy must be full, and be true in point of fact; otherwise, no discharge will be granted.

The application to proceed upon the petition in forma pauperis, in the present position of the proceedings, must accordingly be denied.

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]

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