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## The 'Domestic Violence' Stay Exception Applies to Sexual Violence Decades Earlier

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“Bankruptcy Judge Robert Mark held that the Section 362(b)(2)(A)(v) exception to the automatic stay covers more than imminent or ongoing sexual abuse.

The exception in the automatic stay for “domestic violence” applies to claims for sexual abuse arising decades earlier, not only to claims of imminent or ongoing sexual abuse, says Bankruptcy Judge Robert A. Mark of Miami.

The debtor was nine years older than his sister, the creditor. In early 2021, his sister filed a lawsuit in New York state court alleging that the debtor had sexually abused her over 100 times when they were both minors living in the same household. The suit was not barred by the New York statute of limitations applying to claims of the type.

The debtor filed a chapter 11 petition on the morning that the trial began in state court. The debtor evidently did not persuade the state court judge that he actually had filed bankruptcy. Believing he was protected by the automatic stay, the debtor did not participate in the trial.

The judge in state court proceeded with the trial and entered a judgment the next day in favor of the sister for \$20 million in compensatory and \$5 million in punitive damages.

In bankruptcy, the debtor filed a motion asking for a declaration that the judgment for sexual abuse was void *ab initio* for having violated the automatic stay. The sister took the position that the suit in state court was excepted from the automatic stay by Section 362(b)(2)(A)(v).

The subsection provides that the automatic stay in Section 362(a) “does not operate as a stay . . . of the commencement or continuation of a civil action or proceeding . . . regarding domestic violence.”

According to Judge Mark’s April 25 opinion, the debtor argued that the exception “should be narrowly construed to apply only to actions seeking injunctive relief to prevent ongoing or imminent harm.”

Judge Mark found “no ambiguity in section 362(b)(2)(A)(v).” He observed “no language in the text that limits the phrase ‘civil action or proceeding . . . regarding domestic violence’ to cases involving imminent harm or to cases only seeking injunctive relief.”

“To read into the statute such a temporal limitation would be to rewrite the law rather than interpret it,” Judge Mark said. “There is,” he said, “no precedential case law, no legislative history, and no applicable canon of construction that supports the Debtor’s argument.”

Judge Mark found “no sound basis for this Court to conclude that Congress intended to limit the scope of the domestic violence exception to proceedings addressing ongoing or imminent harm.” Similarly, he rejected the debtor’s proffer that “the statutory canon of *noscitur a sociis*” should apply and lead to a conclusion that the exception for sexual abuse, similar to other exceptions

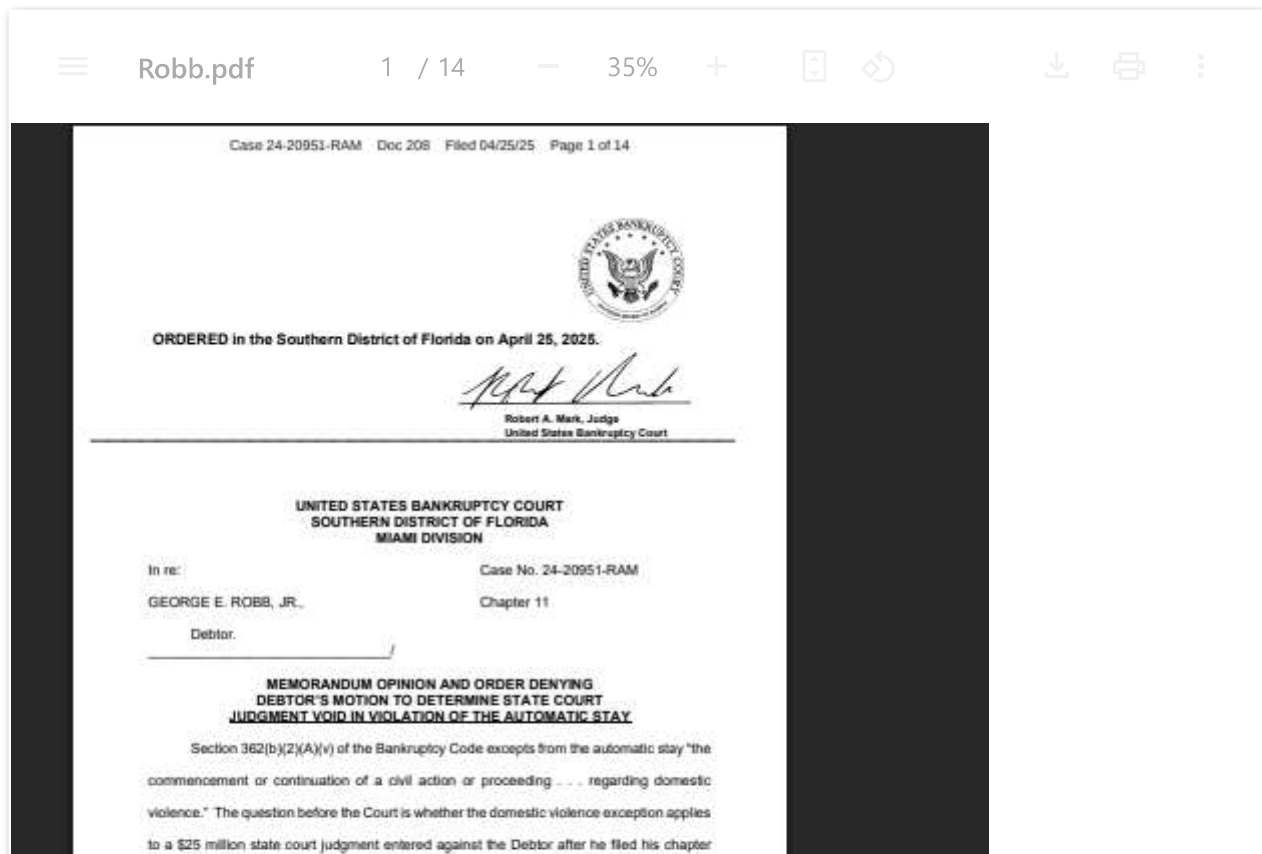
for domestic issues in Section 362(b)(2)(A), relates only to claims about continuing or imminent transgressions.

Judge Mark said that “*noscitur a sociis* is a tool of last resort, used only when statutory language is unclear.” Finding “that section 362(b)(2)(A)(v) is unambiguous,” he “decline[d] to apply the statutory canon of *noscitur a sociis*.” Likewise, he ruled that “the plain meaning of section 362(b)(2)(A)(v) is not absurd under the standard established by the Eleventh Circuit.”

Judge Mark denied the debtor’s motion to declare the state court judgment void for violation of the automatic stay.

## Opinion Link

### PREVIEW



<https://abi-opinions.s3.us-east-1.amazonaws.com/Robb.pdf>

## Case Details

Case Citation	In re Robb, 24-20951 (Bankr. S.D. Fla. April 25, 2025)
Case Name	In re Robb
Case Type	<u>Consumer</u>
Court	<u>11th Circuit</u> <u>Florida</u> <u>Florida Southern District</u>
Bankruptcy Tags	<u>Automatic Stay</u> <u>Consumer Bankruptcy</u> <u>Family/Divorce Issues</u>

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