

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:	:	Case No. 12-50376
Roslyn M. Henderson,	:	Chapter 13
Debtor.	:	Judge Caldwell

**MEMORANDUM OPINION AND ORDER DISMISSING CASE WITHOUT
ENTRY OF DISCHARGE AND WITH PREJUDICE TO FUTURE FILING**

On February 24, 2012, the Court entered an Order Denying Motion to Extend the Automatic Stay and Order to Show Cause for Dismissal with Permanent Bar to Further Bankruptcy Filings and/or Discharge of Scheduled Obligations (Doc. No. 20). The order was entered after hearing on a Motion to Extend the Automatic Stay (Doc. No. 7). At the hearing, the Court noted that Ms. Henderson, who filed the instant case on January 19, 2012, was ineligible to be a debtor under 11 U.S.C. § 109(g)(2) due to the voluntary dismissal of her prior case. Based upon this and her large number of unsuccessful prior Chapter 13 cases and discharged Chapter 7 cases, the Court ordered Ms. Henderson to appear and show cause as to why she should not be permanently barred from seeking future relief under Title 11. The Court held a show cause hearing on April 3, 2012 at which Ms. Henderson did not appear.

This case is Ms. Henderson's seventh bankruptcy proceeding since 1993. Ms. Henderson has been involved in four prior Chapter 13 cases (case nos. 98-58509, 07-57788, 09-60104, and

09-64335). Each of these cases were dismissed prior to completion and without discharge. Ms. Henderson has also received two Chapter 7 discharges (case nos. 93-54057 and 03-53215).

Pursuant to 11 U.S.C. §§ 105 and 349, the Court may permanently bar the discharge of debts that were dischargeable in this case or permanently bar the debtor from filing a subsequent petition under this Title for cause. *See Dietrich v. Nob-Hill Stadium Properties*, 05-2255, 2007 WL 579547 (6th Cir. Feb. 15, 2007). Though “cause” is not defined by the Code, only egregious behavior that demonstrates bad faith and prejudices creditors will warrant a permanent bar from refiling. *Id.* at *3 (citing *In re Leavitt*, 209 B.R. 935, 939 (B.A.P. 9th Cir. 1997)).

To protect creditors and the integrity of the bankruptcy courts, bankruptcy cases must be filed in good faith. *See* 11 U.S.C. §§ 707, 1129(a)(3), and 1325(a)(3). While the Sixth Circuit has not spoken as to what constitutes bad faith, good faith is a fact-specific and flexible determination which requires consideration of the totality of circumstances. *In re Alt*, 305 F.3d 413, 419 (6th Cir. 2002); *Metro Employees Credit Union v. Okoreeh-Baah (In re Okoreeh-Baah)*, 836 F.2d 1030, 1032-33 (6th Cir. 1988). A key inquiry is whether the debtor is seeking to abuse the bankruptcy process. *Alt*, 305 F.3d at 419. While multiple filings are not in and of themselves improper or indicative of bad faith, a history of multiple filings and dismissals may be construed as such. *In re Cusano*, 431 B.R. 726, 735 (B.A.P. 6th Cir. 2010).

In its objection to the Motion to Extend the Automatic Stay, Creditor Credit Union of Texas asserted that it had received documentation purporting to be a Notice of Chapter 13 Bankruptcy Case from this Court. At that time, Creditor had repossessed Ms. Henderson’s vehicle which she wished to redeem. The documents indicated that a bankruptcy case had been filed in Ms. Henderson’s name by an attorney Roosevelt Odom. At the hearing on the motion, Ms. Henderson testified to meeting Mr. Odom, who represented himself as a practicing attorney, at a McDonald’s restaurant to discuss filing a bankruptcy. She testified to paying Mr. Odom \$150.00 to file a Chapter 13 bankruptcy case on her behalf. When asked whether or not she had authorized Mr. Odom to contact Creditor on her behalf and to generate the documents described above, Ms. Henderson stated that she had. Ms. Henderson testified that Mr. Odom told her that a bankruptcy had been filed on her behalf. She currently is not aware of his whereabouts.

The Court must conclude that the instant case was not filed in good faith. Based upon the testimony presented, the Court finds that Ms. Henderson or her agent caused a forged court

document to be sent out to the prejudice of her creditors. Further, Ms. Henderson caused the petition to be filed at a time she was not eligible to be a debtor under Title 11. Finally, Ms. Henderson did not appear at her section 341 meeting of creditors, nor did she attend the hearing to show cause. Examining the totality of the circumstances, the Court finds that Ms. Henderson's case was not filed in good faith.

Further, the Court concludes that the circumstances of the instant case, in conjunction with the series of prior dismissed cases, support a finding of bad faith. Ms. Henderson's serial bankruptcy filings have had the effect of staying creditor's attempts to collect what they are owed repeatedly for almost two decades. Ms. Henderson's acts taken as a whole are indicative of a person intent on abusing the bankruptcy process. The Court finds that Ms. Henderson has engaged in "egregious behavior that demonstrates bad faith and prejudices creditors" which would constitute "cause" for purposes of 11 U.S.C. § 349.

Accordingly, pursuant to this Court's powers under 11 U.S.C. §§ 105 and 349, the instant case is hereby **DISMISSED WITH PREJUDICE**. Roslyn M. Henderson is hereby **PERMANENTLY ENJOINED** from filing a petition under Title 11, individually and/or jointly, anywhere in the United States. Further, Roslyn M. Henderson is hereby **PERMANENTLY ENJOINED** from receiving a discharge of the debts scheduled in this bankruptcy proceeding. The Trustee is granted leave to file his final report and be discharged from his trust.

IT IS SO ORDERED.

Copies to:

All Creditors and Parties in Interest