

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
FILED

APR 23 1998

CHARLENE J. PENNINGTON, CLERK
BY _____ DEPUTY

IN RE:
BUTLER, INC.

CASE NO. 8709191SEG

IN RE:
EDDIE BUTLER

CASE NO. 8809267SEG

EDDIE BUTLER

VS.

ADVERSARY NO. 890939SC

MERCHANTS BANK AND TRUST COMPANY

MEMORANDUM OPINION

Before the Court is the *Motion for Reconsideration*, filed April 10, 1998, and the *Amended Motion for Reconsideration*, filed April 14, 1998, of Eddie Butler and Butler, Inc. ("Butler"), *pro se*. After considering these motions, the Court finds that they are untimely pursuant to Federal Rule of Bankruptcy Procedure 9023 and should be denied.

DISCUSSION

Federal Rule of Bankruptcy Procedure 9023, which incorporates Federal Rule of Civil Procedure 59, provides in part as follows:

(b) Any motion for a new trial must be filed not later than 10 days after entry of the judgment.

...

(e) Any motion to alter or amend a judgment must be filed not later than 10 days after entry of the judgment.

When computing the ten day period, Federal Rule of Bankruptcy Procedure 9006(a) provides that the "day of the act, event, or default from which the designated period begins to run shall not be

included.” Rule 9006(a) also allows intermediate Saturdays, Sundays, and legal holidays to be included in the computation if the time period prescribed is more than 8 days.

Butler initiated proceedings in these closed bankruptcy cases when he filed a motion with this Court to reopen the three bankruptcy proceedings listed above and moved for a change of venue. On March 6, 1998, this Court denied the *Motion for Change of Venue*. Thereafter, on March 16, 1998, Butler filed a *Motion for Reconsideration for a Change of Venue* which was denied on March 25, 1998. Butler then filed an *Amended Motion for Reconsideration for a Change of Venue*, which this Court denied on March 30, 1998. Butler is now asking the Court, for the third time, to reconsider its ruling denying his *Motion for Change of Venue*. The Court finds that the instant motions are untimely under Federal Rule of Bankruptcy Procedure 9023 and should be denied because the ten day period expired prior to the filing of the instant motions. Furthermore, as demonstrated above, Butler filed two previous motions asking the Court to reconsider its March 6, 1998, ruling on the *Motion for Change of Venue* and the Court denied both motions, motions which do not differ substantively from the motions now before the Court.

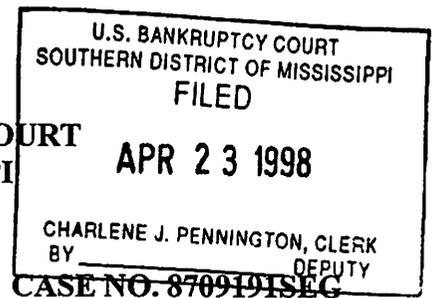
The Court also denied Butler’s *Amended Motion to Reopen* on March 25, 1998. Although Butler has not previously filed a motion to reconsider that ruling, to the extent that the motions now before the Court seek reconsideration of that order, such motions are also untimely under Federal Rule of Bankruptcy Procedure 9023.

The Court will enter a separate order consistent with this opinion.

SO ORDERED this the 23rd day of April, 1998.


UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI



IN RE:
BUTLER, INC.

IN RE:
EDDIE BUTLER

CASE NO. 8809267SEG

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ORDER

Consistent with the Memorandum Opinion entered contemporaneously herewith, the Court finds that the *Motion for Reconsideration*, filed April 10, 1998, and the *Amended Motion for Reconsideration*, filed April 14, 1998, of Eddie Butler and Butler, Inc. ("Butler"), *pro se*, are untimely pursuant to Federal Rule of Bankruptcy Procedure 9023 and should be denied.

IT IS THEREFORE ORDERED that the *Motion for Reconsideration* and *Amended Motion for Reconsideration* filed by Eddie Butler and Butler, Inc., *pro se*, are hereby denied.

SO ORDERED this the 23rd day of April, 1998.


UNITED STATES BANKRUPTCY JUDGE