



A handwritten signature in blue ink that reads "Neil P. Olack".

Judge Neil P. Olack  
United States Bankruptcy Judge  
Date Signed: June 18, 2015

The Order of the Court is set forth below. The docket reflects the date entered.

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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI**

**IN RE:**

**WILLIAM HOLYFIELD,**

**CASE NO. 08-10735-JDW**

**DEBTOR.**

**CHAPTER 13**

**JOYCE WHITEHEAD AND  
L.V. WHITEHEAD**

**PLAINTIFFS**

**VS.**

**ADV. PROC. NO. 09-01177-NPO**

**WILLIAM HOLYFIELD, LOCKE D. BARKLEY,  
WILLIAM B. WALLACE, PANOLA COUNTY,  
MISSISSIPPI, AND UNKNOWN TENANTS**

**DEFENDANTS**

**ORDER RETAINING JURISDICTION  
OVER ADVERSARY AFTER DISMISSAL OF BANKRUPTCY CASE**

This matter came before the Court<sup>1</sup> on the Order on Appeal issued by the U.S. District Court for the Northern District of Mississippi, Oxford Division (the "District Court"), in *William Holyfield v. L.V. Whitehead and Joyce Whitehead*, No. 3:13-CV-00227-DMB, 2014 WL 7739345 (N.D. Miss. Sept. 5, 2014) (the "Remand Order"), remanding the Adversary to this

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<sup>1</sup> The above-referenced adversary proceeding (the "Adversary") initially was assigned to U.S. Bankruptcy Judge David W. Houston, III. Both the Adversary and the above-referenced Bankruptcy case (the "Bankruptcy Case") were then assigned to U.S. Bankruptcy Judge Jason D. Woodard, who reassigned the Adversary to the oversigned on October 8, 2014.

Court for further proceedings. (Adv. Dkt. 174).<sup>2</sup> The Court issued the Order Requiring Submission of Briefs Regarding Dismissal of Bankruptcy Case (the “Briefing Order”) (Adv. Dkt. 180) on May 13, 2015. In the Briefing Order, the Court instructed L.V. Whitehead and Joyce Whitehead (the “Whiteheads”) and the debtor, William Holyfield (“Holyfield”), to file a memorandum brief addressing the limited issue of continued jurisdiction as set forth in *Querner v. Querner*, 7 F.3d 1199, 1201 (5th Cir. 1993). The Whiteheads did not file a brief. Holyfield filed the Memorandum Brief of William Holyfield on the Limited Issue of Continued Jurisdiction (the “Brief”) (Adv. Dkt. 182) on June 15, 2015. The Court begins its jurisdictional analysis with a summary of the procedural history of the Bankruptcy Case and the Adversary.

## I. Procedural History

### A. Bankruptcy Case

Holyfield commenced the Bankruptcy Case under chapter 13 of the Bankruptcy Code on February 25, 2008. (Bankr. Dkt. 1). Thereafter, on July 10, 2009, an Agreed Order (Bankr. Dkt. 77) was entered that provided, *inter alia*, that Holyfield’s Bankruptcy Case would be dismissed without further notice or hearing if he became more than sixty (60) days delinquent in his chapter 13 plan payments. When Holyfield failed to comply with this provision, the Court entered the Final Order of Dismissal (Bankr. Dkt. 114) on September 28, 2012.<sup>3</sup> *See* 11 U.S.C. § 349 (listing effects of dismissal of bankruptcy case).

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<sup>2</sup> Citations to docket entries in the Adversary are cited as “(Adv. Dkt. \_\_\_\_\_)” and in the Bankruptcy Case are cited as “(Bankr. Dkt. \_\_\_\_\_)”.

<sup>3</sup> The Chapter 13 Standing Trustee’s Final Report and Account (Bankr. Dkt. 117) was filed on August 19, 2014, and the Final Decree/Order Closing Case (All Chapters) (Bankr. Dkt. 118) was entered on September 19, 2014.

## **B. Adversary**

Before the dismissal of the Bankruptcy Case, the Whiteheads initiated the Adversary against Holyfield on September 29, 2009 by filing the Action to Determine Title to Certain Personal Property, for Delivery of the Personal Property to the Plaintiffs, for Damages Relating to the Conversion of the Personal Property by the Defendant and to Deny Discharge of a Specific Debt (the “Complaint”) (Adv. Dkt. 1). The Court had jurisdiction over the Adversary when the Complaint was filed because it was “related to” the Bankruptcy Case pursuant to 28 U.S.C. § 157(b)(2)(A),(B), and (O) and 28 U.S.C. § 1334(b).

After several hearings, a final order (the “Final Bankruptcy Order”) (Adv. Dkt. 150) was entered in the Adversary on September 20, 2012. Holyfield appealed the Final Bankruptcy Order to the District Court on October 4, 2012. (Adv. Dkt. 153). The District Court issued the Remand Order on September 5, 2014. The Whiteheads also appealed the Final Bankruptcy Order to the District Court but failed to file an appellate brief, and their appeal was dismissed by the District Court for lack of prosecution. *Whitehead v. Holyfield*, 3:13-cv-00190 (N.D. Miss. Aug. 19, 2014). The Whiteheads then appealed the dismissal by the District Court to the Fifth Circuit Court of Appeals. When they failed to file an appellate brief, the Fifth Circuit dismissed their appeal on March 5, 2015. *Whitehead v. Holyfield*, No. 14-60616 (5th Cir. Mar. 5, 2015).

## **II. Querner**

The Fifth Circuit has held that “as a general rule the dismissal or closing of a bankruptcy case should result in the dismissal of related proceedings.” *Querner*, 7 F.3d at 1201. The dismissal of the Bankruptcy Case took place shortly after Holyfield initiated the appeal, but neither party informed the District Court of the dismissal during the pendency of the appeal, and,

therefore, the District Court was never provided an opportunity to consider whether it should retain jurisdiction over the Adversary.<sup>4</sup>

According to the Fifth Circuit, the decision to retain jurisdiction rests within the court's discretion and is based on a balance of the following four (4) factors: judicial economy, fairness, convenience, and comity. *Id.* at 1202; *see Bass v. Denney (In re Bass)*, 171 F.3d 1016, 1025 n.35 (5th Cir. 1990) (“Similar to a federal district court’s decision regarding the retention of jurisdiction over pendent state claims after federal claims have been dismissed, a bankruptcy court must consider the factors of economy, convenience, fairness, and comity in deciding whether to dismiss or retain jurisdiction over related proceedings.”). Holyfield contends that the first three (3) factors weigh in favor of this Court’s continued exercise of jurisdiction because the Adversary has been fully litigated through trial. Indeed, 151 entries have been docketed in the Adversary beginning with the Complaint in 2009 and ending with the appeal in 2012. The docket entries reveal that during these three (3) years, the parties engaged in extensive discovery, filed motions for summary judgments, and attended two hearings that resulted in three separate bankruptcy opinions, including the Final Bankruptcy Order. Holyfield points out that this Court’s dismissal of the Adversary would require the parties to re-litigate the same issues at considerable expense in another forum. Yet, “all that would remain [before this Court] are the resolution of two issues which should not require addition[al] testimony and can be determined on the existing record,” according to Holyfield. (Br. at 3).

The Court agrees with Holyfield that the rationale for retaining jurisdiction under *Querner* turns, to a large extent, on the degree to which the Adversary has progressed. The Court notes that the existing record consists of 197 exhibits and 398 pages of transcripts from

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<sup>4</sup> Counsel for Holyfield in the Adversary points out that Holyfield was represented by separate counsel in his Bankruptcy Case. (Br. at 1 n.1).

two hearings held over three days and finds that it will be unnecessary to reopen the record to resolve the narrow issues designated by the District Court in the Remand Order. Therefore, the Court's retention of jurisdiction would not require the litigation of the entire Adversary as if no issues had yet been heard or determined. Given how close the Adversary is to its final resolution, the Court finds that judicial economy, fairness, and convenience strongly weigh in favor of retaining jurisdiction. *Cf. Querner*, 7 F.3d at 1202 (finding that bankruptcy court improperly retained jurisdiction, in part, because trial not yet begun, and thus court had "expended few judicial resources").

With respect to the last factor, comity, Holyfield remarks in his Brief that the retention of jurisdiction would not infringe on the jurisdiction of another court. (Br. at 4). The Court finds that the issues designated in the Remand Order are based on Mississippi law and, therefore, this factor does not weigh in favor of retaining jurisdiction. Even so, the Court finds that comity does not outweigh the balance of the other factors because the state law issues are narrow and not complex. Simply put, it would be a waste of judicial resources, and inconvenient and unfair to the parties to require them to start over again in state court because of comity when the Adversary has been fully litigated and only two discrete state law issues remain for determination.

In his Brief, Holyfield informs the Court that he "will shortly [*sic*] be filing a Motion for Summary Judgment." (Br. at 3 n.2). The Court finds that any additional pleadings or other documents are unnecessary and that a decision consistent with the Remand Order can be made without any further contribution by the parties to an already voluminous record.

IT IS, THEREFORE, ORDERED that the Court hereby shall retain jurisdiction over the Adversary.

IT IS FURTHER ORDERED that the parties shall not file any additional pleadings in the Adversary pending entry of the Court's order consistent with the Remand Order.

##END OF ORDER##