



SO ORDERED

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

Judge Neil P. Olack  
United States Bankruptcy Judge  
Date Signed: November 12, 2015

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

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

**IN RE:**

**LATONIA CAMPBELL,  
  
DEBTOR.**

**CASE NO. 15-03134-NPO  
  
CHAPTER 7**

**ORDER DISMISSING BANKRUPTCY  
CASE AND IMPOSING A TWO (2) YEAR FILING BAR**

This matter came on for hearing (the "Hearing") on November 9, 2015 on (1) the Order to Show Cause (Show Cause Order 1)(Dkt. 14) entered by the Court on October 19, 2015, requiring the debtor, Latonia Campbell (the "Debtor") in the above-referenced chapter 7 bankruptcy case (the "Bankruptcy Case") to appear and show cause as to why the Bankruptcy Case should not be dismissed for failure to comply with the Order Granting Application to Pay Filing Fee in Installments (Dkt. 8); (2) on the Order to Show Cause ("Show Cause Order 2")(Dkt. 16) entered by the Court on October 27, 2015, requiring the Debtor to appear and show cause as to why the Bankruptcy Case should not be dismissed for failure to comply with the Court's Deficiency Notice (Dkt. 1); (3) on the Order Scheduling Show Cause Hearing for Failure to Obtain Prepetition Credit Counseling as Required by 11 U.S.C. § 109(h)(1) ("Show

Cause Order 3”)(Dkt. 17) entered by the Court on October 27, 2015; and (4) on the United States Trustee’s Motion to Dismiss and for Imposition of Filing Bar (the “Motion”)(Dkt. 18) filed by Henry G. Hobbs, Jr., the Acting United States Trustee for Region 5 (the “UST”). After fully considering the matter, the Court finds as follows:

### **Jurisdiction**

The Court has jurisdiction over the Bankruptcy Case pursuant to 28 U.S.C. §§ 157 and 1334. This matter constitutes a core proceeding pursuant to 28 U.S.C. § 157(b).

### **Facts**

1. At the Hearing, neither the Debtor nor anyone acting on her behalf appeared. Ronald H. McAlpin (“McAlpin”) appeared on behalf of the UST.

2. McAlpin entered five (5) exhibits into evidence, documenting that the Debtor has had five (5) previous bankruptcy cases dismissed since June 2013.<sup>1</sup>

3. The Debtor filed the Bankruptcy Case, which is her sixth bankruptcy case since June 2013, on October 8, 2015 and, as in her three previous bankruptcies, applied to pay the filing fee in installments (Dkt. 6).

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<sup>1</sup> Exhibit one (1) showed that the Debtor’s first bankruptcy case, *In re Campbell*, No. 13-01068-NPO (filed March 28, 2013) was dismissed on June 21, 2013 for failure to appear at the Section 341 Meeting; exhibit two (2) showed that the Debtor’s second bankruptcy case, *In re Campbell*, No. 13-02492-NPO (filed Aug. 14, 2013) was dismissed on November 8, 2013 for failure to appear at Section 341 Meeting and for failure to make plan payments; exhibit three (3) showed that the Debtor’s third bankruptcy case, *In re Campbell*, No. 14-02894-NPO (filed Sept. 11, 2014) was dismissed on October 21, 2014 for failure to file required documents and for failure to pay filing fee in installments; exhibit four (4) showed that the Debtor’s fourth bankruptcy case, *In re Campbell*, No. 15-00441-NPO (filed Feb. 10, 2015) was dismissed on March 31, 2015 for failure to file requirement documents, for failure to pay filing fee in installments, and for failure to obtain pre-petition credit counseling; and exhibit five (5) showed that the Debtor’s fifth bankruptcy case, *In re Campbell*, No. 15-01496-NPO (filed May 6, 2015) was dismissed on June 22, 2015 for failure to file required documents, for failure to pay filing fee in installments, and for failure to obtain pre-petition credit counseling.

4. At the Hearing, McAlpin stated that, in the twelve (12) months preceding the filing of the Motion, the Debtor had three (3) other bankruptcy cases dismissed. In the Bankruptcy Case, the Debtor has not responded or otherwise appeared.

5. McAlpin argued that the Debtor's serial filing indicates her abuse of the bankruptcy process. He stated that she also has demonstrated a lack of intent to comply with the requirements of the Bankruptcy Code.

6. McAlpin further argued that a dismissal alone would not suffice to deter the Debtor, which is why the UST requested the imposition of a filing bar. According to McAlpin, allowing the Debtor to refile would allow her to abuse the bankruptcy process again.

## **Discussion**

### **I. Dismissal**

Pursuant to 11 U.S.C. § 707(a),<sup>2</sup> the Court may dismiss a chapter 7 proceeding for cause after notice and a hearing. The non-exhaustive list of grounds for dismissal under § 707(a) includes unreasonable delay, nonpayment of fees or charges, and the debtor's failure to file the information required in a voluntary case by § 521(a). See *Peterson v. Atlas Supply Corp. (In re Atlas Supply)*, 857 F.2d 1061, 1063 (5th Cir. 1988).

A chapter 7 case may also be dismissed for abuse after notice and a hearing, taking into consideration whether the case was filed in bad faith. When a debtor's debts are primarily consumer debts, the case may be dismissed if the Court finds that "the granting of relief would be an abuse of the provisions of this chapter." § 707(b)(1). Under § 707(b)(1)(3), the Court will consider whether the filing was made in bath faith or whether the totality of the circumstances indicate that the debtor's financial situation demonstrates abuse.

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<sup>2</sup> All code sections refer to the Bankruptcy Code in title 11 of the U.S. Code unless stated otherwise.

In *In re Hughes*, 360 B.R. 202, 208 (Bankr. N.D. Tex. 2007), the bankruptcy court held that the debtor abused the bankruptcy process by repeatedly filing for bankruptcy and by not attempting to comply with the Bankruptcy Code. “The filing of repetitive bankruptcy cases to forestall secured creditors from exercising foreclosure rights, and without any intent to comply with basic bankruptcy requirements, is an abuse of process and a violation of the spirit and intent, if not the actual letter, of the Bankruptcy Code.” *Id.*

The Court finds that overwhelming evidence exists to dismiss the Bankruptcy Case for cause. The Debtor failed to respond or appear on Show Cause Order 1, Show Cause Order 2, or Show Cause Order 3. The Debtor’s serial filing and failure to comply with the basic requirements of the Bankruptcy Code indicate an abuse of the bankruptcy process. The Debtor filed five (5) previous bankruptcy cases, all of which were dismissed. The last two (2) cases were dismissed because the Debtor failed to file schedules and statements, because the Debtor failed to pay filing fees in installments, and because the Debtor failed to obtain pre-petition credit counseling.

## **II. Imposition of Bar on Filing**

Although dismissals under § 349(a) are generally without prejudice, the Court has discretion “to deny the debtor the benefits of the general rule, i.e., to dismiss the case with prejudice thereby preventing the debtor from obtaining discharge with regard to the debts existing at the time of the dismissed case, at least for some period of time” when there is cause to do so. 3 COLLIER ON BANKRUPTCY ¶ 340.01[1] (15th ed. Rev. 2008). Under § 349(a), the Court may dismiss a case and “enter an order prohibiting a debtor from filing a bankruptcy case for some period of time in the future.” *In re Weaver*, 307 B.R. 834, 840 (Bankr. S.D. Miss. 2002) (citation omitted); see also *In re Hughes*, 360 B.R. at 208 (imposing a two-year filing bar on a

debtor who filed six bankruptcy cases in three years). In addition to § 349(a), § 105(a) provides that the Court may issue any order necessary or appropriate to carry out the provisions of the Bankruptcy Code. The Court may, therefore, fashion a dismissal order with a filing bar in excess of the customary 180-day period.

The Court finds that, based on the Debtor's serial filing and abuse of the bankruptcy system, the Bankruptcy Case should be dismissed with prejudice. The Bankruptcy Case is the Debtor's sixth bankruptcy case in less than three (3) years. A simple dismissal has not been sufficient to deter the Debtor from abusing the bankruptcy system. The Court finds that, in order to deter abusive behavior in the future, the Debtor should be barred from filing another bankruptcy case for two (2) years from date this Order is entered.

### **III. Imposition of Bar on Applications to Pay Filing Fee in Installments**

Although 28 U.S.C. § 1930 allows debtors to pay the filing fee in installments, § 105(a) vests the Court with the authority to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Section 105 further provides that the Court may raise an issue of abuse of process *sua sponte*. The Debtor's three (3) previous bankruptcy cases have been dismissed for failure to pay the filing fee in installments. The Debtor again has failed to pay her filing fee in installments in the Bankruptcy Case. Therefore, the Court finds that, to prevent further abuse of process, the Debtor should not be permitted to apply for payment of the filing fee in installments in the future.

IT IS, THEREFORE, ORDERED that the Motion is hereby granted.

IT IS FURTHER ORDERED that the Bankruptcy Case is hereby dismissed with prejudice.

IT IS FURTHER ORDERED that the Debtor is hereby barred from filing another bankruptcy case for two (2) years after the date of this Order.

IT IS FURTHER ORDERED that, to file any future voluntary petition with the Clerk of Court, the Debtor must include the full amount of the filing fee, unless she qualifies to proceed *in forma pauperis*.

##END OF ORDER##