SO ORDERED,

Judge Jamie A. Wilson
United States Bankruptcy Judge
Date Signed: October 15, 2024

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

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

IN RE:

LINDA T. MCCOY,	**CASE NO. 24-00449-JAW**
DEBTOR.	**CHAPTER 13**
LINDA T. MCCOY	**PLAINTIFF**
VS.	**ADV. PROC. NO. 24-00014-JAW**
MISSISSIPPI DEPARTMENT OF REVENUE AND INTERNAL REVENUE SERVICE	**DEFENDANTS**

ORDER RESOLVING ORDER TO SHOW CAUSE
AND DISMISSING ADVERSARY PROCEEDING

This matter came before the Court for hearing on October 7, 2024 (the "Show Cause Hearing") on the Order to Show Cause (the "Show Cause Order") (Adv. Dkt. #26)[1] issued to the debtor, Linda T. McCoy ("McCoy"), to show cause why the above-styled adversary proceeding (the "Adversary") should not be dismissed in light of the dismissal of the underlying bankruptcy case (the "Bankruptcy Case"); and the Affidavit in Support of Continuing Adversary (the "Affidavit") (Adv. Dkt. #32) filed by McCoy. At the Show Cause Hearing, McCoy appeared *pro*

[1] Citations to the record are as follows: (1) citations to docket entries in the adversary proceeding are cited as "(Adv. Dkt. ___)"; and (2) citations to docket entries in the underlying bankruptcy case are cited as "(Bankr. Dkt. ___)".

se; Andrew Norwood appeared on behalf of the Internal Revenue Service ("IRS"); Sylvie D. Robinson and Drew D. Guyton appeared on behalf of the Mississippi Department of Revenue ("MDOR").

Jurisdiction

The Court has jurisdiction over the parties to and the subject matter of this proceeding pursuant to 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (I), and (O). Notice of the Show Cause Hearing was proper under the circumstances.

Facts[2]

McCoy filed a chapter 13 petition for relief on February 28, 2024.[3] (Bankr. Dkt. #1). On July 12, 2024, during the pendency of the Bankruptcy Case, McCoy initiated the Adversary *pro se*,[4] asking the Court to declare tax debts owed the MDOR and IRS nondischargeable under 11 U.S.C. § 523(a). (Adv. Dkt. #1, #10). According to McCoy, those debts consist of state taxes arising from tax obligations incurred 1995 through 2000 and federal taxes arising from tax obligations incurred in 2009, 2010, and 2015. (Adv. Dkt. #32 at 2).

At McCoy's request (Bankr. Dkt. #43), this Court entered an order dismissing the Bankruptcy Case on September 16, 2024 (Bankr. Dkt. #44). At that time, the Bankruptcy Case had been pending only about seven months without a confirmable plan of reorganization or a discharge order. The Court issued the Show Cause Order to determine whether the Adversary should be dismissed. McCoy filed the Affidavit asking the Court to retain jurisdiction and adjudicate the

[2] The following findings of fact and conclusions of law are made pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure. To the extent any of the findings of fact herein are considered conclusions of law, they are adopted as such, and vice versa.

[3] This was McCoy's third bankruptcy case. *See In re McCoy* 07-02998-NPO (Bankr. S.D. Miss. Sept. 25, 2007); *In re McCoy*, 18-01569-NPO (Bankr. S.D. Miss. Apr. 19, 2018).

[4] McCoy was represented by counsel in the Bankruptcy Case but represented herself in the Adversary.

Adversary despite the dismissal of the Bankruptcy Case.

Discussion

"As a general rule the dismissal or closing of a bankruptcy case should result in the dismissal of related proceedings." *Querner v. Querner (In re Querner)*, 7 F.3d 1199, 1201 (5th Cir. 1993). The dismissal of an underlying bankruptcy case, however, does not automatically strip a federal court of jurisdiction over an adversary proceeding. Courts have discretion to retain jurisdiction. The exercise of that discretion depends on four factors: judicial economy, convenience to the parties, fairness, and comity. *See, e.g., Querner,* 7 F.3d at 1202 (citing *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988)). Here, these factors weigh against the Court's retention of jurisdiction over the Adversary.

Judicial economy is not served because of the infancy of the litigation.[5] As of the date of this order, the Adversary has been pending for only three months and is nowhere close to resolution or trial. Another reason why judicial economy is not served is because McCoy's tax debts cannot be discharged given the dismissal of her underlying Bankruptcy Case. This last point warrants a brief explanation.

In her Adversary complaint, McCoy asks this Court to rule that her tax debts are dischargeable in her Bankruptcy Case. Because of McCoy's dismissal of her Bankruptcy Case without a discharge, however, the adjudication of the dischargeability of her tax debts would serve no bankruptcy purpose. Simply put, with no prospect of a discharge, her dischargeability claims are now moot. *See Steed v. Educ. Credit Mgmt. Corp. (In re Steed)*, 614 B.R. 395, 402-04 (Bankr.

[5] Instead of filing an answer to the complaint, the MDOR and IRS filed motions to dismiss. (Adv. Dkt. # 17, #20). Because of those dispositive motions, no order scheduling discovery deadlines had been entered in the Adversary.

N.D. Ga. 2020) (holding that a debtor's dischargeability claim was moot after he voluntarily dismissed his bankruptcy case); *In re Le Fande*, 641 B.R. 430, 436 (Bankr. S.D. Fla. 2022) (holding that once a bankruptcy case is dismissed, dischargeability claims no longer present a live controversy for which a court may give meaningful relief and are moot). McCoy recognizes the nexus between the Adversary and the Bankruptcy Case in her Adversary complaint: "This adversarial proceeding relates to In Re: *Linda McCoy*, a Chapter 13 Case pending before the United States Bankruptcy Court . . . docketed as Case 24-00449." (Adv. Dkt. #1 at 2, #10 at 2).

As to the second *Querner* factor, there is no convenience to the parties to prosecute a dischargeablity action that will serve no bankruptcy purpose. In fact, the opposite is true. For the same reason, the third *Querner* factor also weighs against retaining jurisdiction because it would be unfair to force MDOR and the IRS to defend the Adversary if there is no possibility of a discharge. As to the fourth *Querner* factor, comity is best served under these facts by leaving the issues raised by McCoy to the taxing authorities.

McCoy's only legal argument in her Affidavit in support of this Court's retention of jurisdiction over her dischargeability claim is her citation to *In re Porges*, 44 F.3d 159, 162-63 (2d Cir. 1995).[6] (Adv. Dkt. #32 at 2). There, the U.S. Court of Appeals for the Second Circuit Court held that the bankruptcy court had properly retained jurisdiction over a debtor's adversary proceeding following the dismissal of his bankruptcy case. However, *Porges* was decided in a different jurisdiction, is not binding on this Court, and otherwise is not persuasive for three main

[6] In *Porges*, the bankruptcy court held a bench trial on the adversary proceeding on March 29, 1993. *Porges*, 44 F.3d at 160. At the close of evidence, the court orally ruled in the creditor's favor and directed his attorney to submit proposed findings of fact and conclusions of law. On April 23, 1993, however, one day before the creditor's submissions were due, the debtor moved to dismiss his chapter 13 petition. The bankruptcy court signed the order of voluntary dismissal but specifically retained jurisdiction pursuant to 11 U.S.C. § 349 to enter its findings of fact and conclusions of law on the issues previously adjudicated.

reasons: 1) the trial of the adversary proceeding in *Porges* had been completed and nothing remained to be done other than memorializing the Court's bench ruling in a written order; 2) the *Porges* Court expressly retained jurisdiction to adjudicate the adversary proceeding in the order dismissing the bankruptcy case; and 3) the litigation in *Porges* concerned a proof of claim and the entry of a money judgment. Here, in contrast to *Porges*, no trial had been held or even set in the Adversary because of pending motions to dismiss filed by MDOR and the IRS. (Adv. Dkt. #17, #20). Also, this Court did not retain jurisdiction to adjudicate the Adversary in its order dismissing McCoy's Bankruptcy Case. Moreover, the litigation initiated by McCoy concerns the dischargeability of tax debts for which there is no prospect of a discharge.

Conclusion

Because McCoy voluntarily dismissed her chapter 13 Bankruptcy Case knowing the posture of the Adversary and because no discharge will be issued, the Court declines to retain jurisdiction over the Adversary consistent with *Querner*. In other words, because McCoy seeks a determination of the dischargeability of tax debts in the Adversary, her claims are moot without an underlying bankruptcy case for which a discharge is possible. If there is no possibility of a discharge, the debts cannot be discharged regardless of any determination under 11 U.S.C. § 523(a) in the Adversary.

IT IS, THEREFORE, ORDERED that the Adversary is hereby dismissed.

##END OF ORDER##