



SO ORDERED.

SIGNED this 16th day of July, 2025

**THIS ORDER HAS BEEN ENTERED ON THE DOCKET.
PLEASE SEE DOCKET FOR ENTRY DATE.**


Suzanne H. Bauknight
CHIEF UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE**

In re

STEPHEN ANTOINE CLARK
aka STEPHEN A. CLARK

Case No. 3:25-bk-30993-SHB
Chapter 13

Debtor

MEMORANDUM AND ORDER

A hearing was held July 16, 2025 (“July 16 Hearing”), on (1) the Order entered June 6, 2025 (“June 6 Order”), directing Debtor, *pro se*, to appear and show cause why this case should not be dismissed for his failure to file the Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information; Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; Chapter 13 Plan; and Debtor Electronic Noticing Election (DeBN) required by 11 U.S.C. §§ 521(a)(1) or 1321, Federal Rules of Bankruptcy Procedure 1007(b) and 3015(b), and E.D. Tenn. LBR 9036-1(b)(1), and, as authorized by 11 U.S.C. § 349(a), incorporating 11 U.S.C. § 109(g), why the Court should not impose a 270-day bar against the filing of a bankruptcy case by Debtor under any chapter of Title 11 “for his repeated and willful failure to abide by orders of this Court and otherwise comply with the provisions of the Bankruptcy Code”

in this and three prior cases [Doc. 11 at ¶ 2]; and (2) the Trustee's Motion to Dismiss With Prejudice filed by Debra L. Miller, Chapter 13 Trustee ("Trustee"), on June 13, 2025 [Doc. 15]. Debtor did not file a response to either the June 6 Order or the Trustee's Motion to Dismiss, did not file any of the delinquent statements and schedules, did not pay the \$113.00 balance of the filing fee as directed by the Order entered on May 23, 2025 [Doc. 6], and did not appear at the hearing on July 16, 2025.

I. FINDINGS OF FACT

The record reflects the following undisputed facts. This is Debtor's third bankruptcy case filed *pro se* within fifteen months.¹ The histories of the cases are summarized as follows:

(A) In Case No. 3:24-bk-30422-SHB, filed on March 15, 2024, Debtor failed to (1) file the Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information; Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; and Chapter 13 Plan required by §§ 521 and 1321; Rules 1007(b) and 3015(b); the Notice of Additional Documents to Be Filed dated March 18, 2024; and the Order entered on April 1, 2024, granting Debtor's request to extend the time to file documents; (2) pay the \$313.00 filing fee as directed by the Order Approving Payment of Filing Fee in Installments entered on March 18, 2024; and (3) appear at the hearing held May 8, 2024, as directed by the Court's Order entered on April 16, 2024, for Debtor to show cause why the case should not be dismissed for non-compliance and the notice of hearing on the Chapter 13 Trustee's Motion to Dismiss filed April 15, 2024, resulting in dismissal of the case by an Order entered on May 8, 2024, "for willful failure of the debtor to abide by orders of the court [and] to appear before the court in proper

¹ Debtor also filed two Chapter 13 cases in 2019, both of which were dismissed.

prosecution of the case” [No. 3:24-bk-30422-SHB, ECF Doc. 20 (quoting § 109(g)(1))];

(B) In Case No. 3:24-bk-32003-SHB, filed on November 14, 2024, Debtor failed to (1) file the Statement Regarding Payment Advices; Schedules A/B, C, E/F, G, H, I, and J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information; Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; and Chapter 13 Plan required by §§ 521 and 1321; Rules 1007(b) and 3015(b); the Notice of Additional Documents to Be Filed dated November 15, 2024; (2) pay the \$48.00 balance of the filing fee as directed by the Order entered on December 5, 2024; and (3) appear at the hearing held December 18, 2024, as directed by the Court’s Order entered on December 3, 2024, for Debtor to show cause why the case should not be dismissed for non-compliance and the notice of hearing on the Chapter 13 Trustee’s Motion to Dismiss filed December 3, 2024, resulting in dismissal of the case by an Order entered on December 20, 2024, “for willful failure of the debtor to abide by orders of the court [and] to appear before the court in proper prosecution of the case” [No. 3:24-bk-32003-SHB, ECF Doc. 23 (quoting § 109(g)(1))]; and

(C) in this case, Debtor has failed to (1) file the Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information; Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; Chapter 13 Plan; and Debtor Electronic Noticing Election (DeBN) required by §§ 109(h), 521(b)(1), and 1321; Rules 1007(b) and 3015(b); E.D. Tenn. LBR 9036-1(b); and the Notice of Additional Documents to Be Filed dated May 27, 2025; (2) pay the \$113.00 balance of the filing fee as directed by the Order entered on May 23, 2025; and (3) appear at the July 16 Hearing as directed by the June 6 Order and the notice of hearing on the Chapter 13

Trustee's Motion to Dismiss With Prejudice filed on June 13, 2025.

II. CONCLUSIONS OF LAW

Bankruptcy courts “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). “Unless the court, for cause, orders otherwise, . . . dismissal of a case under this title [does not] prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.” 11 U.S.C. § 349(a). However, an individual may not be a debtor if he or she “has been a debtor in a case pending under this title at any time in the preceding 180 days if – the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case.” 11 U.S.C. § 109(g). Thus, under this statutory authority, the Bankruptcy Code imposes its own 180-day bar against re-filing by a debtor who has willfully failed to comply with court orders or appear before the Court, and it provides the Court with the authority to issue orders necessary to carry out the provisions of the Code, including dismissing a case with prejudice for cause.

Because 11 U.S.C. § 1325(a)(7) requires debtors to file and proceed in their Chapter 13 cases in good faith, bad faith constitutes cause for dismissal. Bankruptcy courts in the Sixth Circuit perform the good faith analysis under an almost identical standard as cases concerning good faith and dismissal under 11 U.S.C. § 1307(c). *In re Hall*, 346 B.R. 420, 426 (Bankr. W.D. Ky. 2006); *see also In re Gomery*, 523 B.R. 773, 785 (Bankr. W.D. Mich. 2015) (“The factors that are relevant to the good faith determination under either § 1325 or § 1307(c) obviously overlap to some extent[.]” (citing *Alt v. United States (In re Alt)*, 305 F.3d 413, 419 (6th Cir. 2002))). Whether a debtor has filed a case in bad faith requires examination of the totality of the circumstances and is based on past and present circumstances. *Soc’y Nat’l Bank v. Barrett (In re Barrett)*, 964 F.2d 588, 591 (6th Cir. 1992).

To determine good faith, courts generally focus on the following non-exhaustive factors:

(1) the debtor's income; (2) the debtor's living expenses[;] (3) the debtor's attorney fees; (4) the expected duration of the Chapter 13 plan; (5) the sincerity with which the debtor has petitioned for relief under Chapter 13; (6) the debtor's potential for future earning; (7) any special circumstances the debtor may be subject to, such as unusually high medical expenses; (8) the frequency with which the debtor has sought relief before in bankruptcy; (9) the circumstances under which the debt was incurred; (10) the amount of payment offered by debtor as indicative of the debtor's sincerity to repay the debt; (11) the burden which administration would place on the trustee; and (12) the statutorily-mandated policy that bankruptcy provisions be construed liberally in favor of the debtor.

Id. at 592 (citations omitted). Other factors include “the accuracy of the plan’s statements of the debts, expenses and percentage repayment of unsecured debt[,] . . . [and] whether any inaccuracies are an attempt to mislead the court[.]” *Hardin v. Caldwell (In re Caldwell)*, 851 F.2d 852, 859 (6th Cir. 1988) (citation omitted). Courts may also consider

the nature of the debt, including the question of whether the debt would be nondischargeable in a Chapter 7 proceeding; the timing of the petition; how the debt arose; the debtor's motive in filing the petition; how the debtor's actions affected creditors; the debtor's treatment of creditors both before and after the petition was filed; and whether the debtor has been forthcoming with the bankruptcy court and the creditors.

In re Alt, 305 F.3d at 419 (citation omitted). By weighing the factors, “which ‘may circumstantially reflect the debtor’s motivation, and ultimately his “good faith”’ in seeking relief under chapter 13,” courts may determine whether “the debtor’s purpose in filing for chapter 13 relief is consistent with the underlying purpose and spirit of chapter 13 – i.e., financial ‘rehabilitation through repayment of debt’ – [and if] the filing is likely in good faith.” *Condon v. Brady (In re Condon)*, 358 B.R. 317, 326 (B.A.P. 6th Cir. 2007) (internal citations omitted).

Although courts must find that imposition of a sanction “be commensurate with the egregiousness of the conduct,” the purpose of adding § 109(g) was to address abuse of the system including “the filing of meritless petitions in rapid succession to improperly obtain the benefit of the Bankruptcy Code’s automatic stay provisions as a means of avoiding foreclosure under a

mortgage or other security interest.” *In re Cline*, 474 B.R. 789 (Table), No. 11-8075, 2012 WL 1957935, at *7 (B.A.P. 6th Cir. June 1, 2012) (citations omitted). “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 bad faith.” *Cusano v. Klein (In re Cusano)*, 431 B.R. 726, 735 (B.A.P. 6th Cir. 2010) (citing *In re Glenn*, 288 B.R. 516, 520 (Bankr. E.D. Tenn. 2002)).

Bad faith can be demonstrated in a variety of ways, including serial filings with failure to make plan payments. *In re Grischkan*, 320 B.R. 654, 661 (Bankr. N.D. Ohio 2005). Other indicators include serial filers who “repeatedly [seek] the protections of the Bankruptcy Code in an effort to thwart the foreclosure efforts of [creditors]”, and those who “frustrate[] the bankruptcy process,” such as by failing to pay filing fees in installments and produce required documents.” *In re Lee*, 467 B.R. 906, 919 (B.A.P. 6th Cir. 2012); *see also In re Morris*, No. 3:10-BK-04143, 2010 WL 3943927, at *9-10 (Bankr. M.D. Tenn. Oct. 6, 2010) (failure to pay filing fee or file certificate of credit counseling were two of the facts in the court’s decision to dismiss with prejudice). Repetition of the same conduct “strengthens the inference that the conduct was deliberate,” and the court will “infer from a pattern of dismissals and refilings in unchanged circumstances willful failure to abide by orders of the court and an abuse of the bankruptcy process.” *In re Nelkovski*, 46 B.R. 542, 544 (Bankr. N.D. Ill. 1985).

In re Wilcoxon, No. 18-62228-rk, 2018 WL 6016540, at *3 (Bankr. N.D. Ohio Nov. 15, 2018).

Thus, if there is sufficient cause, courts have the authority under 11 U.S.C. §§ 105(a) and 349(a) to sanction abusive debtors with a prohibition against filing for more than the 180 days reflected in § 109(g)(1). *In re Cusano*, 431 B.R. at 737.

As stated previously, Debtor has filed three Chapter 13 bankruptcy cases since March 2024. Because Debtor did not file statements and schedules, none of the cases progressed beyond the initial stages nor did Debtor pay the full filing fee for any case. Furthermore, Debtor has not appeared at any hearing before this Court, including the July 16 Hearing, notwithstanding that the June 6 Order expressly warned Debtor that the Court intended to impose a 270-day bar against his refiling of another case. Finally, Debtor did not comply with § 521(a)(1) by filing the required statements and schedules, whereby this case, which was filed on May 22, 2025, was “automatically dismissed effective on the 46th day after the date of the filing of the petition,” i.e., July 7, 2025,

pursuant to 11 U.S.C. § 521(i)(1). Accordingly, a totality of the circumstances evidences that Debtor has repeatedly and willfully failed to comply with orders of this Court and the Bankruptcy Code and did not file this case in good faith.

For the foregoing reasons, constituting the Court's findings of fact and conclusions of law as required by Federal Rule of Civil Procedure 52, applicable to contested matters by virtue of Rule 9014 of the Federal Rules of Bankruptcy Procedure, the Court directs the following:

1. Because Debtor did not comply with § 521(a)(1) by filing the documents required by that section, this case, which was filed on May 22, 2025, was “automatically dismissed effective on [July 7, 2025,] the 46th day after the date of the filing of the petition” pursuant to § 521(i)(1).

2. Because Debtor did not file the Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information; Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; Chapter 13 Plan; and Debtor Electronic Noticing Election (DeBN) required by 11 U.S.C. §§ 521(a) and 1321; Federal Rules of Bankruptcy Procedure 1007(b) and 3015(b); E.D. Tenn. LBR 9036-1(b)(1); and the Notice of Additional Documents to Be Filed dated May 27, 2025; and did not appear at the July 16 Hearing, this Chapter 13 bankruptcy case is DISMISSED “for willful failure of the debtor[s] to abide by orders of the court [and] to appear before the court in proper prosecution of the case[.]” 11 U.S.C. § 109(g)(1).

3. Likewise, the Motion to Dismiss With Prejudice filed by the Trustee on June 13, 2025 [Doc. 15], is GRANTED.

4. As authorized by 11 U.S.C. § 349(a), incorporating therein 11 U.S.C. § 109(g)(1), based on his repeated and “willful failure . . . to abide by orders of the court, . . . to appear before the court in proper prosecution of the case[.]” and to otherwise comply with the provisions of the Bankruptcy Code, Stephen Antoine Clark is BARRED from filing another bankruptcy petition

under any chapter of Title 11 of the United States Code for a period of 270 days from the date of entry of this Order.

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