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U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT**

In re: LINDA CATRON, Debtor.	BAP No. EC-25-1137-BSL Bk. No. 25-21686
LINDA CATRON, Appellant, v. NEWREZ LLC; SHELLPOINT MORTGAGE, a Division of New Rez; INTERNAL REVENUE SERVICE; FRANCHISE TAX BOARD; EXTRA SPACE STORAGE; PUBLIC STORAGE; MAXFERDS JEWLERY AND LOAN; DEPARTMENT OF MOTOR VEHICLES; LIBERTY ELECTRIC; SOUTHWEST GAS; TRUCKEE DISPOSAL; SPECTREM; DAVID CUSICK, Chapter 13 Trustee, Appellees.	**MEMORANDUM**[*]

Appeal from the United States Bankruptcy Court
for the Eastern District of California
Christopher M. Klein, Bankruptcy Judge, Presiding

Before: BRAND, SPRAKER, and LAFFERTY, Bankruptcy Judges.

[*] This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have, *see* Fed. R. App. P. 32.1, it has no precedential value, *see* 9th Cir. BAP Rule 8024-1.

INTRODUCTION

Appellant, chapter 13[1] debtor Linda Catron, appeals an order granting the trustee's motion to dismiss her case for unreasonable delay under § 1307(c)(1). The bankruptcy court also determined that she was proceeding in bad faith, and it dismissed the case with prejudice under § 349(a). Seeing no reversible error, we AFFIRM.[2]

FACTS[3]

Ms. Catron filed a skeletal chapter 13 bankruptcy case on April 9, 2025. It was her eighth chapter 13 filing since 2018, her fifth since 2023.[4] All previous cases were dismissed for failure to timely file documents, failure to make plan payments, or failure to timely confirm a plan. By order entered on April 9, 2025, Ms. Catron was to file all documents by April 23, 2025.

Instead of filing the required documents by April 23, Ms. Catron filed a motion requesting more time to file them. She stated that she is 76, is or was

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[1] Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and all "Rule" references are to the Federal Rules of Bankruptcy Procedure.

[2] On July 14, 2026, Ms. Catron moved to continue the Panel's July 16 oral argument for another 60 days due to her recent discovery of extrinsic fraud committed by her mortgage lender in 2016. To the extent it was not clear at oral argument, that request was DENIED. Ms. Catron also requested a consolidation of this appeal with several other appeals she has pending before the Panel. That request is DENIED.

[3] We exercise our discretion to take judicial notice of documents electronically filed in the bankruptcy court, where appropriate. *See Atwood v. Chase Manhattan Mortg. Co. (In re Atwood)*, 293 B.R. 227, 233 n.9 (9th Cir. BAP 2003).

[4] The seven previous cases were: 24-21762: filed 04/29/24, dismissed 01/06/25; 24-20101: filed 01/10/24, dismissed 04/11/24; 23-22522: filed 07/31/23, dismissed 10/19/23; 23-20616: filed 02/28/23, dismissed 07/28/23; 19-24436: filed 07/16/19, dismissed 08/13/19; 18-26923: filed 11/01/18, dismissed 11/30/18; and 18-23232: filed 05/23/18, dismissed 10/19/18.

suffering from cancer, and living on social security, rental income, and an inheritance. She discussed a rental property she owned and her attempts to negotiate the mortgage with her lender and loan servicer. She accused these parties of filing false, inflated proofs of claim in her prior bankruptcy cases and engaging in espionage, which she claimed affected her ability to succeed in those cases. She also accused them of breaking into the property in 2022 and causing damage. All of this apparently led to her filing various suits (and appeals) in state and federal court, as well as her multiple bankruptcies.

In response, the chapter 13 trustee ("Trustee") noted that Ms. Catron had filed schedules, a statement of financial affairs, and a plan in her last case (which was still open), so it was unclear why she had not yet completed and filed the required documents for this case filed over a month earlier.

Ultimately, Ms. Catron filed the required documents on May 27. She appeared at the first § 341(a) meeting of creditors two days later.

On June 6, Trustee moved to dismiss Ms. Catron's case for unreasonable delay under § 1307(c)(1). She had not served her plan on any interested parties and no motion to confirm a plan was pending. She had also failed to provide any pay advices or proof of social security number or a photo ID as instructed at the § 341(a) meeting. Trustee argued that it appeared Ms. Catron had no intention or ability to reorganize her debts given her history of serial filings and no apparent change in circumstances. Trustee argued that dismissal was in the best interest of creditors and the estate because no non-exempt equity was available for payment if the case was converted to chapter

7. A hearing on the motion to dismiss was set for July 22. Oppositions were due by July 8.

On July 14, Ms. Catron filed an untimely opposition to Trustee's motion to dismiss, seeking additional time to file a response and requesting a three-to-four week continuance of the July 22 hearing for health reasons and to retain counsel. Ms. Catron stated that she was having surgery on July 22, but that she would have the required documents prepared by that time and sent by mail, that she would serve her plan by July 19, that she would upload proof of her social security number and photo ID, and that she would set a confirmation hearing even though her plan would likely not be ready for confirmation until September.

On July 18, Ms. Catron requested an order shortening time for a hearing on July 21 for the purpose of explaining why her case should not be dismissed and why the dismissal hearing should be continued. Ms. Catron maintained that she had equity for creditors given her pending litigation in state court against her mortgage lenders over the loan balance, her inheritance, her pending settlement of a tax dispute,[5] and her pending motion for violation of the automatic stay.[6] Ms. Catron stated that she had been hospitalized on July 17 and was awaiting surgery on July 22 at 9:45 a.m.

The bankruptcy court promptly denied Ms. Catron's request for an

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[5] The IRS filed a proof of claim in this case for $314,678.09. *See* Claim 1-1.

[6] Ms. Catron filed a "Motion to Impose Power of the Court Title 11 USC 105 Unprecedented Creditors Scheme Bankruptcy Fraud Civil Cases," which appears to be her motion for violation of the automatic stay. In reviewing the document, it is not clear which creditor(s) violated the stay, if any, or when the stay was violated, if at all.

order shortening time and to continue the dismissal hearing. The court said that, after reviewing Ms. Catron's prior cases and the schedules and statement of financial affairs filed, it had no confidence she was proceeding in good faith. Despite her knowledge and experience in chapter 13, Ms. Catron had fulfilled few of her duties as a chapter 13 debtor. The court believed that her motion to continue was just another one of her "many delay tactics" and that "[e]nough [was] enough." Together with the order denying Ms. Catron's request to continue the July 22 hearing, the court also issued an order to show cause ("OSC") why it should not order under § 349(a) that the dismissal either (1) bar the discharge of debts in a later case that were dischargeable in this case, or (2) be with prejudice to the filing of a subsequent case.

The dismissal/OSC hearing proceeded on July 22 at 11:15 a.m. The bankruptcy court announced its findings of fact and conclusions of law on the record granting Trustee's motion to dismiss. We do not have a transcript as required by Rule 8009, and it is not available on the bankruptcy court's docket.[7] Ms. Catron did not appear at the hearing, but she did file another opposition one hour before it, stating that she had served her chapter 13 plan, that proof of her social security number was in the mail, and that she had uploaded her photo ID. She also stated that her inheritance added $130,000 to her estate.

The bankruptcy court entered an order granting Trustee's motion and

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[7] We can therefore assume that the transcript does not assist Ms. Catron in her appeal. *See Gionis v. Wayne (In re Gionis)*, 170 B.R. 675, 680-81 (9th Cir. BAP 1994), *aff'd*, 92 F.3d 1192 (9th Cir. 1996).

dismissing Ms. Catron's eighth chapter 13 case with prejudice under § 349(a), barring the discharge of debts in future cases that were dischargeable in this case. The court found that "cause" for dismissal with prejudice was established based on Ms. Catron's history of serial failed filings, her apparent inability or unwillingness to fulfill her duties as a chapter 13 debtor, her filing an opposition one hour before the 11:15 a.m. dismissal/OSC hearing while claiming to have surgery that morning at 9:45 a.m., and her failure to appear and explain herself. The court found that it was clear Ms. Catron knew what to do yet refused to comply, and that her requests to continue the hearing and for more time to oppose the dismissal were nothing more than a delay tactic. This timely appeal followed.

JURISDICTION

The bankruptcy court had jurisdiction under 28 U.S.C. §§ 1334 and 157(b)(2)(A). We have jurisdiction under 28 U.S.C. § 158.

ISSUES

Did the bankruptcy court abuse its discretion in dismissing Ms. Catron's eighth chapter 13 case, and dismissing it with prejudice?

STANDARDS OF REVIEW

A bankruptcy court's finding of bad faith to support dismissal of a chapter 13 case is reviewed for clear error. *Khan v. Barton (In re Khan)*, 846 F.3d 1058, 1063 (9th Cir. 2017). Factual findings are clearly erroneous if they are illogical, implausible, or without support in the record. *Retz v. Samson (In re Retz)*, 606 F.3d 1189, 1196 (9th Cir. 2010).

We review a bankruptcy court's decision to dismiss a case for abuse of discretion. *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1223 (9th Cir. 1999). The decision to dismiss a case with prejudice is also reviewed for an abuse of discretion. *See id.* at 1226. A bankruptcy court abuses its discretion if it applies an incorrect legal standard, misapplies the correct legal standard, or makes factual findings that are illogical, implausible, or not supported by the record. *United States v. Hinkson*, 585 F.3d 1247, 1261-62 (9th Cir. 2009) (en banc).

DISCUSSION

A. The bankruptcy court did not abuse its discretion in dismissing Ms. Catron's eighth chapter 13 case for unreasonable delay and bad faith.

Other than § 349(a), which authorized the bankruptcy court to find that "cause" existed for a dismissal with prejudice, the dismissal order is silent as to what authority the bankruptcy court relied upon to dismiss Ms. Catron's case. Trustee sought dismissal under § 1307(c)(1) for unreasonable delay, and the court clearly found delay. The court also dismissed the case for bad faith given its finding in the OSC that it had no confidence Ms. Catron was proceeding in good faith.

Section 1307(c)(1) gives the bankruptcy court discretion to dismiss for "unreasonable delay by the debtor that is prejudicial to creditors." This section focuses on the hardship creditors suffer by a debtor's delay and inquires whether the debtor's "use of chapter 13 is motivated by a genuine intent to deal fairly with [one's] creditors by confirming a plan promptly." *In re Malek*, 591 B.R. 420, 432 (Bankr. N.D. Cal. 2018); *see also Ellsworth v. Lifescape*

Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (9th Cir. BAP 2011) ("A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)."). Bad faith, although not explicitly listed in § 1307(c), is also "cause" for dismissal of a chapter 13 case. *In re Leavitt*, 171 F.3d at 1224.

Ms. Catron offers no argument for how the bankruptcy court abused its discretion in dismissing her case for unreasonable delay and bad faith. As the court noted, Ms. Catron failed in her well-known duties as a serial chapter 13 debtor to file the required documents and to file them in a timely manner. She failed to submit even the simplest of things – proof of her social security number and a photo ID – for over three months, and then she only did so when her case was about to be dismissed. It took her seven weeks to file her schedules, statement of financial affairs, and a plan, and she filed them only when threatened with dismissal. Then, she failed to serve her plan on interested parties for nearly two months after she filed it, and, again, she only did so when threatened with dismissal.

In short, Ms. Catron filed nothing and/or did nothing to prosecute her case until pushed. She offered no excuse for her delay other than health issues and inability to retain counsel. However, her health issues and lack of counsel did not prevent her from filing multiple papers seeking more delay.

Ms. Catron's history of filing eight chapter 13 cases since 2018, none of which resulted in confirmation, supports not only a finding of prejudice to creditors but also bad faith. It is clear that she is seeking only to invoke the protections of the automatic stay while showing no genuine effort to pay her creditors. Her proposed plan in this case was unconfirmable on its face, failing to account for the massive arrears of over $800,000 for the rental property mortgage, or the IRS debt of $315,000, most of which was secured or entitled to priority treatment. Given the record, the bankruptcy court did not abuse its discretion in dismissing Ms. Catron's eighth chapter 13 case for unreasonable delay under § 1307(c)(1) and bad faith.

B. The bankruptcy court did not abuse its discretion in dismissing the case with prejudice.

Section 349(a) establishes a general rule that dismissal of a case is without prejudice, but it expressly grants a bankruptcy court the authority to dismiss a case with prejudice – i.e., a permanent bar to refiling. *In re Leavitt*, 171 F.3d at 1223-24. Bad faith based on egregious behavior can support dismissal with prejudice under § 349(a). *Id.* at 1224. As with the appeal of the bankruptcy court's dismissal of her chapter 13 case, Ms. Catron does not specifically address the court's decision to dismiss the case with prejudice.

To determine the existence of bad faith sufficient to order dismissal of a chapter 13 case with prejudice, the bankruptcy court must consider the totality of the circumstances. *Id.* Factors to consider include: (1) whether debtor misrepresented facts in the petition, unfairly manipulated the Bankruptcy Code, or otherwise filed the petition in an inequitable manner; (2) debtor's history of filings and dismissals; (3) whether debtor only intended to defeat state court litigation; and (4) the presence of egregious behavior. *Id.* The bankruptcy court need not find that every factor is satisfied. *In re Khan*, 846 F.3d at 1066. Rather, the *Leavitt* factors are "simply factors to consider[,]" and "what matters is the totality of the circumstances." *Id.* (citation modified). A dismissal with prejudice where the debtor is forever barred from seeking to discharge those debts which would have been discharged is functionally equivalent to a judgment under § 523(a), in that each debt that would have been discharged under the debtor's completed plan is thereafter nondischargeable. *In re Ellsworth*, 455 B.R. at 921-22. Thus, a dismissal with prejudice "is a drastic remedy reserved for extreme situations." *Id.* at 922 (citation modified).

While the bankruptcy court did not expressly refer to *Leavitt*, it appears to have applied the standard set forth in that case based on its findings that Ms. Catron had filed multiple chapter 13 cases without ever confirming a plan, that she had either an inability or unwillingness to fulfill her duties as a chapter 13 debtor, and that she was engaging in a pattern of inexcusable delay.

Ms. Catron argues generically that dismissal of her case with prejudice violated her civil and constitutional rights. She simply states that the court violated her rights by dismissing her bankruptcy and by dismissing it with prejudice. However, "[t]here is no constitutional right to obtain a discharge of one's debts in bankruptcy." *United States v. Kras*, 409 U.S. 434, 446 (1973). Further, Ms. Catron received sufficient due process. Due process requires "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). Trustee moved to dismiss the case on June 6 and set the matter for hearing on July 22. Rather than file a genuine response, Ms. Catron untimely sought to delay filing a response and asked that the hearing be continued for three or four weeks. When that was denied, the court gave Ms. Catron notice in the OSC that it would consider dismissing the case with prejudice and barring the discharge of debts in future cases that were dischargeable in this case at the scheduled July 22 hearing. Though Ms. Catron failed to appear at that hearing, she did file a response one hour prior to it. However, her response was essentially more of the same – unsupported statements that her proposed plan, which was entirely infeasible, would work.

Although dismissal with prejudice is a harsh result, we do not believe that the bankruptcy court abused its discretion here. And because Ms. Catron did not ask for, or offer any evidence in support of, any alternative to dismissal with prejudice, the bankruptcy court did not need to consider lesser alternatives. *See In re Ellsworth*, 455 B.R. at 922-23.

CONCLUSION

For the reasons stated above, we AFFIRM.[8]

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[8] Ms. Catron has since filed a *ninth* skeletal chapter 13 case (No. 25-24931), which the bankruptcy court ultimately dismissed after issuing an OSC for failure to file documents. The dismissal included a two-year pre-filing bar. Ms. Catron has appealed that dismissal.