



Honorable Mike K. Nakagawa
United States Bankruptcy Judge



Entered on Docket
April 01, 2019

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

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In re:) Case No.: 18-15439-MKN
CLARENCE MOSES WILLIS,) Chapter 7
Debtor.) Date: March 27, 2019
Time: 1:30 p.m.

**ORDER REGARDING MOTION FOR IN REM RELIEF FROM THE AUTOMATIC
STAY, OR ALTERNATIVELY, RELIEF FROM THE AUTOMATIC STAY¹**

On March 27, 2019, the court heard the Motion for In Rem Relief from the Automatic Stay, or Alternatively, Relief from the Automatic Stay (“Motion”), brought by Federal National Mortgage Association. The appearances of counsel were noted on the record. After arguments were presented, the matter was taken under submission.

The court having reviewed the record, concludes that the Motion must be denied because the instant bankruptcy case previously was dismissed pursuant to Section 521(i).

The record reflects that Clarence Moses Willis (“Debtor”) commenced the above-captioned Chapter 7 case, in pro se, by filing a voluntary petition on September 12, 2018 (“Petition Date”). (ECF No. 1).² Debtor’s voluntary Chapter 7 petition was not accompanied by any schedules of assets and liabilities, nor any of the other information required by Section

¹ In this Order, all references to “ECF No.” are to the number assigned to the documents filed in the case as they appear on the docket maintained by the clerk of court. All references to “Section” are to the provisions of the Bankruptcy Code, 11 U.S.C. §§ 101-1532. All references to “FRE” are to the Federal Rules of Evidence.

² The docket reflects that the Debtor filed a previous Chapter 7 petition in this court on April 29, 2010. On August 27, 2010, Debtor received a Chapter 7 discharge.

521(a)(1). On the same date, a notice of incomplete and/or deficient filing was sent to the Debtor. (ECF No. 5).

Under Section 521(i), an individual Chapter 7 debtor has 45 days after the bankruptcy case is commenced to file the information required by Section 521(a). If the information is not filed by the 45th day, the bankruptcy case is automatically dismissed effective on the 46th day. See 11 U.S.C. § 521(i)(1).

In this case, Debtor had 45 days from the Petition Date to file the required information. The 45th day from the Petition Date was October 27, 2018. Although a Chapter 7 debtor or a Chapter 7 bankruptcy trustee may seek an extension of the deadline before it expires, see 11 U.S.C. § 521(i)(3 and 4), no such requests were made. Because Debtor did not file the required information by October 27, 2018, the instant case was automatically dismissed on October 28, 2018, by operation of Section 521(i).³

Because the above-captioned case was automatically dismissed, the court cannot grant the relief requested by the instant Motion, in particular the in rem relief sought under Section 362(d)(4) with respect to certain real property located at 4912 Canadian Drive, Las Vegas, Nevada 89130. A final judgment quieting title to that property in favor of the moving party was entered by the United States District Court for the District of Nevada (“USDC”) on April 26, 2018, in Federal National Mortgage Association v. Ernest C. Aldridge, Clarence Moses Willis, Geri L. McKinnon, Creative Solutions 4 U LLC, and Does 1 through 20, inclusive, Case No. 2:15-cv-02366-JCM-GWF. A motion to stay the judgment was denied by the USDC on July 2, 2018. After the judgment was appealed to the United States Court of Appeals for the Ninth Circuit, the appellate court denied a separate motion to stay the judgment on February 26, 2019.⁴

³ Although the Debtor filed an amended voluntary Chapter 7 petition on September 9, 2018, he did not file the remaining documents and information required by Section 521(a)(1) until November 9, 2018. (ECF No. 17). On December 21, 2018, Debtor filed amended Schedules “E/F,” and an amended Verification of Creditor Matrix and List of Creditors. (ECF No. 31). By those dates, however, the case was already dismissed as a matter of law.

⁴ The court separately takes judicial notice under FRE 201 of the documents filed in the proceedings before the federal district and appellate courts. See U. S. v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980); Conde v. Open Door Mktg., LLC, 223 F. Supp. 3d 949, 970 n.9 (N.D. Cal.

1 As it presently stands, the judgment of the USDC establishes that the Debtor has no legal interest
2 in the subject property.

3 Although in rem relief under Section 362(d)(4) otherwise appears appropriate, the court
4 is not inclined to grant such relief in a case that already has been dismissed. Because the case is
5 dismissed, any other matters pending in the case will be vacated from the calendar.

6 Additionally, the court will dismiss without prejudice the adversary proceeding
7 commenced by the Debtor prior to the hearing on the Motion. See Clarence M. Willis v. Federal
8 National Mortgage Association, Adversary Pro. No. 19-01024-MKN, commenced March 13,
9 2019. That adversary proceeding alleges conduct by the moving party in connection with the
10 Motion that occurred, if at all, after the Motion was filed on January 24, 2019. Given that the
11 underlying case was automatically dismissed as of October 28, 2018, retention of jurisdiction
12 over the adversary proceeding is inappropriate.

13 **IT IS THEREFORE ORDERED** that the Motion for In Rem Relief from the Automatic
14 Stay, or Alternatively, Relief from the Automatic Stay, brought by Federal National Mortgage
15 Association, Docket No. 37, be, and the same hereby is, **DENIED**.

16 **IT IS FURTHER ORDERED** that the above-captioned Chapter 7 proceeding is
17 **DISMISSED WITHOUT PREJUDICE as of October 28, 2018**, pursuant to 11 U.S.C. §
18 521(i).

19 **IT IS FURTHER ORDERED** that all hearings currently on calendar in the above-
20 captioned Chapter 7 proceeding are **VACATED**.

21 **IT IS FURTHER ORDERED** that Clarence M. Willis v. Federal National Mortgage
22 Association, Adversary Pro. No. 19-01024-MKN, be, and the same hereby is, **DISMISSED**
23 **WITHOUT PREJUDICE**. Any currently calendared matters in connection with the adversary
24 proceeding are **VACATED**. The clerk of the court is directed to docket a copy of this order in
25 that adversary proceeding and to close the matter.

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28 2017); Green v. Williams, 2012 WL 3962458, at *1 n.1 (D. Nev. Sept. 7, 2012); Bank of Am.,
N.A. v. CD-04, Inc. (In re Owner Mgmt. Serv., LLC Trustee Corps.), 530 B.R. 711, 717 (Bankr.
C.D. Cal. 2015).

1 Copies sent via CM/ECF ELECTRONIC FILING

2 Copies sent via BNC to:
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