

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re

Case No. 6:06-bk-00562-KSJ
Chapter 7

LEO ORTIZ,
AMELIA ORTIZ,

Debtors

ORDER DENYING APPLICATION TO PROCEED
IN FORMA PAUPERIS

This case came on for hearing on May 2, 2006, on the debtors' Application to Proceed in Forma Pauperis (the "Application") (Doc. No. 3). The debtors, Leo and Amelia Ortiz, have applied for a waiver of their Chapter 7 filing fee pursuant to 28 U.S.C. 1930(f). The statute, which became effective on October 17, 2005, grants discretion to a bankruptcy court to waive the Chapter 7 filing fee in cases filed by individuals if they meet a two part test.¹ First, the debtors must demonstrate that their income is less than 150% of the official poverty line. Second, the debtors must persuade the Court that they are unable to pay the filing fee in installments.

To qualify for a fee waiver, a family of six living in Florida must earn no more than \$3,350 a month. The debtors, who have four children, list their monthly net income at \$1,433. The income is earned by Mrs. Ortiz who works part-time at a local retail store. As such, the debtors have demonstrated that their income is less than 150% of the official poverty line.

However, the Court cannot find that these particular debtors lack the ability to pay the filing fee in installments over time. They simply would like to be excused from paying the filing fee, but they have failed to convince this Court that they lack the ability to do so. Mr. Ortiz currently is unemployed and, at the hearing held on May 2, 2006, was unable to explain why he is no longer contributing income to the family. Certainly, Mr. Ortiz previously was the primary wage earner insofar as the family's normal monthly expenses total

approximately \$3,500. The debtors explained that, in the past few months, they have gotten substantial help from family and friends and have sold various articles of property to maintain their prior lifestyle without alternation due to their reduced income. However, the debtors failed to list this additional income on their application seeking a fee waiver. Nor could they explain why they continued to incur unrealistically high expenses when their income was so drastically reduced. Moreover, the Court, after weighing the credibility of the debtors, concludes that their low income level is temporary, that the debtors failed to fully disclose their financial condition, and that they do have the ability to pay the filing fee over time. Accordingly, it is

ORDERED:

1. The Application (Doc. No. 3) is denied.
2. The debtors are directed to begin making installment payments according to the following terms:
 - \$100.00 on or before May 26, 2006;
 - \$100.00 on or before June 26, 2006;
 - \$ 99.00 on or before July 26, 2006.
3. If the debtors fail to timely make installment payments, this case may be dismissed without further notice or hearing.

DONE AND ORDERED in Orlando, Florida,
this 11th day of May, 2006.

/s/ Karen S. Jennemann
KAREN S. JENNEMANN
United States Bankruptcy Judge

¹ Judicial Conference of the United States Interim Procedures Regarding the Chapter 7 Fee Waiver Provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Promulgated August 11, 2005, available at <http://www.uscourts.gov/bankruptcycourts/jcusguidelines.htm> l.