

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

Case No. 6:08-bk-03143-ABB
Chapter 13

WALTER THOMAS HAYES, JR.,

Debtor.

ORDER

This matter came before the Court on the letter dated May 22, 2008 (Doc. No. 38) submitted by Sophia Hayes ("Movant"), the former spouse of the Debtor Walter Thomas Hayes, Jr. ("Debtor"). The letter shall be treated as a motion for reconsideration of the Order entered on May 29, 2008 (Doc. No. 33) granting HSBC Mortgage Services, Inc. ("HSBC") relief from the co-debtor stay. An evidentiary hearing was held on June 9, 2008 at which counsel for HSBC appeared.

The Movant and Debtor jointly owned their marital home located at 1177 Vickers Lake Drive, Ocoee, Florida 34761 which was encumbered by a first priority mortgage held by Wells Fargo Home Mortgage. The Movant was persuaded by the Debtor to co-sign for a home equity loan with HSBC and reluctantly executed the loan documents. The Movant and Debtor divorced, and, unbeknownst to the Movant, the Debtor failed to make payments on the mortgages, causing the home to be foreclosed upon in July 2007.

HSBC instituted a suit on the loan note against the Movant and Debtor in the Circuit Court in and for Orange County, Florida and obtained a Summary Final Judgment on October 17, 2007 ("State Court Judgment") against them, jointly and severally, for \$61,370.51 with post-judgment interest at the rate of eleven percent per annum. HSBC, to collect on the State Court Judgment, instituted a garnishment action against the Movant pursuant to which it garnished the Movant's wages.

The Debtor filed this individual Chapter 13 case on April 22, 2008 thereby staying HSBC's collection actions pursuant to 11 U.S.C.

Sections 362(a) and 1301(a). Section 1301(a) protected the Movant through the co-debtor stay staying HSBC's garnishment action.

The Debtor filed a Chapter 13 Plan (Doc. No. 14) which does not provide for payment of the State Court Judgment. HSBC filed and served a Motion for Relief from Co-Debtor Stay (Doc. No. 19) seeking relief from the co-debtor stay pursuant to 11 U.S.C. Section 1301(c)(2) on the basis the Debtor's Plan does not propose to pay its claim. The Debtor and the Trustee consented to HSBC's stay relief motion (Doc. Nos. 28, 29). HSBC, pursuant the May 29, 2008 Order, was granted relief from the co-debtor stay permitting it to pursue its remedies as to the State Court Judgment against the Movant.

The Movant's Motion is governed by Federal Rule of Civil Procedure 59(e), which is made applicable to bankruptcy proceedings through Federal Rule of Bankruptcy Procedure 9023. In re Waczewski, Case No. 6:06-bk-00620-KSJ, 2006 WL 1594141 (Bankr. M.D. Fla. May 5, 2006). The only grounds for granting a motion for reconsideration "are newly-discovered evidence or manifest errors of law or fact." Kellogg v. Schreiber (In re Kellogg), 197 F.3d 1116, 1119 (11th Cir. 1999).

No remedies exist in this bankruptcy case for assisting the Movant with resolving her unfortunate situation. She has presented no newly-discovered evidence or manifest error of law or fact warranting the reconsideration or amendment of the May 29, 2008 Order. No basis for reconsideration or amendment of the May 29, 2008 Order has been established pursuant to Federal Rule of Civil Procedure 59(e).

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the Movant's Motion (Doc. No. 38) is hereby **DENIED**.

Dated this 16th day of June, 2008.

/s/ Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge