

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

IN RE: )CHAPTER 13  
STEPHANIE ROBINSON, )CASE NO. 00-54312-JDW  
DEBTOR )

BEFORE

JAMES D. WALKER, JR.

UNITED STATES BANKRUPTCY JUDGE

COUNSEL

For Debtor: Gail C. Robinson  
P. O. Box 8579  
Warner Robins, GA 31095

For Trustee: Camille Hope  
Chapter 13 Trustee  
P. O. Box 954  
Macon, GA 31202

MEMORANDUM OPINION

Debtor has filed a motion to vacate alleging that following dismissal of the case by order entered August 4, 2003, the case should be reinstated based on Debtor's return to employment. This order is entered for the purpose of explaining the reasoning in denying the motion.

Motions to reinstate dismissed cases and motions to vacate orders dismissing cases are essentially the same thing. Such requests propose to revive dismissed cases and proceed with payments to the Trustee and disbursements to creditors. This is an unusual remedy that requires unusual factual circumstances.

This remedy should be employed whenever there has been an error on the part of the clerk's office, the trustee's office, the judge's office or the debtor's attorney's office. Cases should not be reinstated simply because the debtor has remedied the financial problem which led to the original dismissal. While this is a convenient alternative to re-filing a case, it is confusing to creditors and serves to create a gap in the protection of the automatic stay. Creditors receiving notice of the dismissal of the case may change their position in reliance on the order dismissing the case. It is not fair to require those creditors to incur the additional expense and inconvenience

of coming forward to explain to the court why the case should not be reinstated when it was dismissed for appropriate reasons. This case is particularly appealing for reinstatement since it proposes a ninety-two (92%) percent dividend. That fact, however, should not overshadow the considerations weighing against reinstatement.

It is understood that Debtor may be eligible to re-file this case. It is also understood that the re-filing may accomplish the same objective as reinstating the case. Lastly, it is understood that reinstating the case seems a more convenient alternative than starting the case over with a re-filing. Nevertheless, the reinstatement of this case after having been dismissed for failure to make payments into the plan is essentially identical in effect to re-filing the case without the formalities attendant to such a re-filing.

An order in accordance with this memorandum opinion will be entered on this date.

Dated this 15th day of August, 2003.

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Hon. James D. Walker, Jr.  
United States Bankruptcy Court

CERTIFICATE OF SERVICE

I, Cheryl L. Spilman, certify that the attached and foregoing have been served on the following:

Gail C. Robinson  
P. O. Box 8579  
Warner Robins, GA 31095

Camille Hope  
Chapter 13 Trustee  
P. O. Box 954  
Macon, GA 31202

Stephanie Robinson  
311 Beattie Avenue  
Apt. 4  
Lockport, NY 14094

This \_\_\_\_\_ day of August, 2003.

\_\_\_\_\_  
Cheryl L. Spilman  
Deputy Clerk  
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

IN RE: )CHAPTER 13  
          )CASE NO. 00-54312-JDW  
STEPHANIE ROBINSON, )  
                          )DEBTOR )

ORDER

This order is entered in accordance with the memorandum opinion of even date.

Now, therefore it is hereby

ORDERED that Debtor's motion to vacate be and it hereby is DENIED.

Dated this 15<sup>th</sup> day of August, 2003.

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JAMES D. WALKER, JR.  
United States Bankruptcy Court

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This \_\_\_\_\_ day of August, 2003.

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Cheryl L. Spilman  
Deputy Clerk  
United States Bankruptcy Court