

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

TIFFANY D. RICHARDSON,
aka TIFFANY D. POLITE RICHARDSON,

Case No. DK 18-05138
Hon. Scott W. Dales
Chapter 13

Debtor.

ORDER GRANTING TRUSTEE'S MOTION TO DISMISS AND
REQUEST FOR BAR TO RE-FILING

PRESENT: HONORABLE SCOTT W. DALES
Chief United States Bankruptcy Judge

Tiffany D. Richardson (the “Debtor”) filed a chapter 13 bankruptcy petition on December 11, 2018. Shortly thereafter, chapter 13 trustee Barbara Foley (the “Trustee”) filed the Motion to Dismiss Chapter 13 Case with Request for 180 Day Bar to Refiling (the “Trustee’s Motion,” ECF No. 22) arguing that, among other transgressions, the Debtor has filed three prior chapter 13 bankruptcies since 2015, but only disclosed one.¹

In fact, the Debtor has numerous bankruptcy filings dating back to 1989, some using a slightly different Social Security number, some using aliases:²

89-01565-jdg	Tiffany Polite
93-82224-jdg	Tiffany Polite
93-86004-jdg	Tiffany Polite
94-82628-jdg	Tiffany Polite
98-08165-jcs	Tiffany Polite-Richardson
02-13503-jdg	Tiffany Richardson
02-12424-jdg	Tiffany Richardson
04-02834-jdg	Tiffany Polite-Richardson
05-22137-jcs	Tiffany Richardson
08-04399-swd	Tiffany Richardson
15-05064-jtg	Tiffany Richardson
16-03587-jtg	Tiffany Richardson
16-05873-swd	Tiffany Denise Richardson
18-05138-swd	Tiffany D. Richardson

¹ These cases include Case No. 15-05064, filed September 14, 2015 and dismissed by the Debtor on September 30, 2015; Case No. 16-03587, filed July 7, 2016, and dismissed by the court, *sua sponte*, on August 30, 2016; and Case No. 16-05873, filed November 22, 2016, and dismissed on April 4, 2017, also on the court’s own initiative.

² Not listed here are two additional cases filed in 2002 and 2003 using a different first name.

After an evidentiary hearing in her next most recent case (Case No. 16-05873), the Honorable John T. Gregg found:

Here, the debtor has engaged in a scheme to hinder and delay the creditors from pursuing their rights with respect to the real property. The debtor is clearly a serial filer as she has filed three cases in three years related to the real property. Moreover, this Court's independent review of the debtor's past filings with this court reveals that she has filed many more than three times, sometimes using the name Tiffany Polite Richardson. According to the court's dockets, of which the Court takes judicial notice under Federal Rule of Evidence 201, the debtor has filed at least nine other bankruptcy cases extending back to 1993.

Transcript of Hearing Held March 16, 2017 (ECF No. 62 in Case No. 16-05873) at pp. 10:23-11:9.

In addition to Judge Gregg's unchallenged finding that the Debtor was engaging in a bankruptcy-related scheme to hinder and delay creditors in her last (dismissed) case, the court notes, based on her admissions in her current case, that she has (1) failed to make preconfirmation plan payments as required under § 1326, and (2) failed to attend the meeting of creditors held pursuant to § 341. *See* Transcript of Hearing Held Feb. 15, 2019 (ECF No. 30 in Case No. 18-05138, hereinafter "Tr.") at pp. 16:9-17:14. Moreover, she has filed a proposed chapter 13 plan without using the court's model form as required under LBR 3015(d)—despite the Trustee's having raised this defect in a motion resulting in dismissal of her next most recent chapter 13 case. The Debtor, albeit proceeding without benefit of counsel in her current case, had counsel in her prior case and surely understands the filing requirements from her vast history of filing and refiling cases with the court.

In another significant admission, the Debtor stated that she is current on her payments to all creditors, that she has made payments in connection with the eviction proceedings that evidently prompted the current bankruptcy filing, and that she can assert in the state courts her claims and defenses regarding the real estate where she now resides. When the court inquired how a bankruptcy proceeding could help her, she replied, implausibly, that she needed assistance with respect to a single missed payment:

THE COURT: So what do you need bankruptcy relief for?

MS. RICHARDSON: Well, initially I had come into the court because there was -- I was -- I had that one payment that, you know, needed to be shown and taken care of. So, I came to this court to get assistance, to assist me in that matter.

THE COURT: How would we assist you, if you're making payments and you have a right to --

MS. RICHARDSON: Well, there was that one payment. The question came up, did I -- what's -- had I held any payment? And the answer was, I had had the payment on hold, but I was -- in the matter of the court, I needed to get assistance from the court to tell me where that payment was supposed to go. Because at

that point, Mr. Bohn had moved an action against me to try to evict me, and the eviction was not a proper thing for him to do at that time.

THE COURT: But you could contest the eviction in the state court and say that you paid, right?

MS. RICHARDSON: Yes. That is correct.

Tr. at pp. 14:22-15:14.

In other words, when asked about her reasons for filing the current petition if she can pay her debts as they come due, she had no explanation about why she is again resorting to the bankruptcy court other than to delay the current eviction proceeding in order to get direction from the bankruptcy court about disbursing a single payment. Without a satisfactory explanation, and given the shocking record of serial filings, the court infers, as did Judge Gregg in 2017, that the Debtor is misusing the Bankruptcy Code (and more specifically, the automatic stay under § 362(a)) to the disadvantage of creditors, in this case, principally, her current landlord, who concurs in the Trustee's Motion.

After taking judicial notice of its own records and considering the findings by Judge Gregg following an evidentiary hearing in the Debtor's most recent previous bankruptcy filing, the court will grant the Trustee's Motion and bar the Debtor from filing another bankruptcy case, under any chapter, until she receives an order from this court granting her permission to do so. Where, as here, it becomes clear that a debtor's bankruptcy petition is no longer an honest prayer for relief but instead a recurring litigation tactic, a court is justified in conditioning future filings on a strong showing of good faith.

Accordingly, the court is entering this Order to terminate the current proceeding and ensure that any future proceeding is premised on a good faith, *bona fide* need for relief under title 11, before any automatic stay goes into effect.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Trustee's Motion (ECF No. 22) is GRANTED on the terms provided herein;
2. The Debtor is BARRED from filing a bankruptcy case under any chapter except upon further order of this court, obtained on motion served upon the United States Trustee and any creditor with an interest in property the Debtor is using as a residence at the time of the proposed filing;
3. The Clerk may strike, and interested parties may treat as null and void, any future bankruptcy petition filed by or on behalf of the Debtor that does not comply with this Order;
4. That the Trustee shall file her final report and account;

5. That all orders which have been entered, if any, requiring the employer of the Debtor to submit monies to the Trustee are hereby terminated as of the date of entry of this Order; and
6. The court retains jurisdiction to enforce this Order.

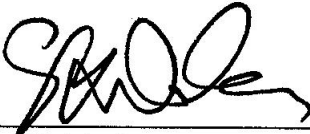
IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon Barbara P. Foley, Esq., all entities listed on the mailing matrix, the United States Trustee (by first class U.S. Mail), and Tiffany D. Richardson (by first class U.S. Mail).

END OF ORDER

IT IS SO ORDERED.

Dated February 26, 2019





Scott W. Dales
United States Bankruptcy Judge