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IT IS SO ORDERED.

Dated: May 1, 2025



Mina Nami Khorrami
Mina Nami Khorrami
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re: :
Shanquala M. Pruitt : Case No. 25-50997
Brenda Pruitt : Chapter 13
Debtors. : Judge Nami Khorrami

ORDER DENYING DEBTORS’ AMENDED MOTION TO IMPOSE THE AUTOMATIC STAY PER 11 U.S.C. 362 (C)(4)(B) (DOC. #19) AND DEBTORS’ MOTION FOR EXPEDITED HEARING TO CONSIDER DEBTORS’ AMENDED MOTION TO IMPOSE THE AUTOMATIC STAY (DOC. #20)

Before the Court is the *Debtors’ Amended Motion to Impose the Automatic Stay Per 11 U.S.C. 362 (c)(4)(B)* (Doc. #19) (the “Stay Motion”) and the *Motion for Expedited Hearing To Consider Debtors’ Amended Motion to Impose the Automatic Stay (Doc #19)* (Doc. #20) (the “Motion to Expedite”) filed by the Debtors, Shanquala M. Pruitt and Brenda Pruitt (the “Debtors”), on April 29, 2025.¹ For the reasons which follow, the Motions are denied.

¹ Where appropriate, the Stay Motion and Motion to Expedite will be referred to collectively as the “Motions.”

The Stay Motion requests that the automatic stay in this case be imposed pursuant to 11 U.S.C. § 362(c)(4)(B). The Court, having considered the record, finds that this Chapter 13 case (the “Petition”) was filed by the Debtors on March 14, 2025. The Stay Motion acknowledges that one of the Debtors, Shanquala M. Pruitt, had two prior Chapter 13 cases, the first being Case No. 24-52302, which was dismissed on August 1, 2024; and the second being Case No. 24-53814, which was dismissed on February 7, 2025. Therefore, as to the Debtor, Shanquala M. Pruitt, the automatic stay did not go into effect when this case was filed. *See* 11 U.S.C. § 362(c)(4)(A)(i).

Section 362(c)(4) of the Bankruptcy Code governs a request for imposition of the automatic stay and provides in pertinent part as follows:

(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

...

(B) if, *within 30 days after the filing of the later case*, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed[.]

11 U.S.C. § 362(c)(4)(A) – (B) (emphasis added). This section requires that a request to impose the stay must be made within 30 days of the date on which the Chapter 13 case is filed. *In re Clark*, 2019 WL 2488146 (Bankr. N.D. Miss. May 9, 2019).

In this case, the Debtors filed the Petition on March 14, 2025 (the “Petition Date”). The Stay Motion requesting the imposition of the automatic stay was filed on April 25, 2025, which is forty-two days after the Petition Date. As a result of the delay in filing the Stay Motion, it was not filed in compliance with § 362(c)(4)(B). Therefore, the Debtors’ request to impose the automatic stay under § 362(c)(4) is untimely.

The Motion to Expedite requests that the Court hold an expedited hearing to consider the Stay Motion and contends that the Court may extend the deadline set forth in § 362(c)(4)(B) for excusable neglect pursuant to Rule 9006(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Debtors assert that excusable neglect exists because their counsel had never dealt with a case where a motion under § 362(c)(4) was required. The Court assumes, without deciding, that this would establish excusable neglect under *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 392-95, 113 S. Ct. 1489, 1495, 123 L. Ed. 2d 74 (1993). Nonetheless, the Court may not extend the time limit set by § 362(c)(4)(B) on the authority of Bankruptcy Rule 9006(b).

By its terms, Bankruptcy Rule 9006(b), which governs extensions of time, “applies when these rules, a notice given under these rules, or a court order requires or allows an act to be performed at or within a specified period.”² To the extent that a provision of the Bankruptcy Code or some other statute sets a deadline, Bankruptcy Rule 9006(b)’s plain language does not provide the Court with authority to modify it. *United States ex rel. Tenn. Valley Auth. v. Easement & Right-of-Way Over Certain Land in Cumberland Cnty., Tenn.*, 386 F.2d 769, 771 (6th Cir. 1967) (applying analogous provision of Rule 6(b) of the Federal Rules of Civil Procedure); *In re Tubular Tech., LLC*, 348 B.R. 669, 710-11 (Bankr. D.S.C. 2006) (holding that Bankruptcy Rule 9006(b) cannot be used to extend a time limit created by a provision of the Bankruptcy Code); *In re Barnes*, 308 B.R. 77, 81 (Bankr. D. Colo. 2004) (same); *In re Federated Food Courts, Inc.*, 222 B.R. 396, 398-99 (Bankr. N.D. Ga. 1998) (same); *In re Damach, Inc.*, 235 B.R. 727, 731-32 (Bankr. D. Conn. 1999) (same). Furthermore, even if Bankruptcy Rule 9006(b) could be read to apply to a

² In contrast, Bankruptcy Rule 9006(a), which governs computing time, applies not only to the Bankruptcy Rules and court orders, but also to deadlines set by an applicable provision of the Federal Rules of Civil Procedure (the “Civil Rules”) and to any statute that “does not specify a method of computing time.”

statutory deadline, that would risk running afoul of the provision in the Rules Enabling Act, 28 U.S.C. § 2075, prohibiting the Bankruptcy Rules from abridging, enlarging, or modifying any substantive rights. *Damach*, 235 B.R. at 732.

Finally, to the extent that the Motion to Expedite could be construed to request that the Court exercise its equitable powers under 11 U.S.C. § 105(a), that avenue of relief is foreclosed by *Law v. Siegel*, 571 U.S. 415, 421, 134 S. Ct. 1188, 188 L. Ed. 2d 146 (2014), which holds that § 105(a) may not be used to “contravene specific statutory provisions.” Therefore, there is no basis upon which the Court may impose the stay under § 362(c)(4) as to the Debtor, Shanquala M. Pruitt.

The Court notes that the Debtor, Brenda Pruitt, has not filed a previous bankruptcy case within the last two years. Accordingly, as to the Debtor, Brenda Pruitt, the automatic stay went into effect on the Petition Date and remains in effect because § 362(c)(4) did not apply to her. *In re Haisley*, 350 B.R. 48, 50-51 (Bankr. E.D. La. 2006); *In re Parker*, 336 B.R. 678, 681 (Bankr. S.D.N.Y. 2006). Furthermore, the codebtor stay provided by 11 U.S.C. § 1301 is independent of § 362’s automatic stay, so that both Debtors continue to be protected by § 1301. *In re Whitlock-Young*, 571 B.R. 795, 805 (Bankr. N.D. Ill. 2017).

Accordingly, it is **ORDERED** that the Motions are hereby DENIED.

IT IS SO ORDERED.

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