

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE:)
)
Tammie F. Curry,) Case No. 25-13286
)
Debtor(s).)

ORDER RESETTING CASE FOR STATUS WITH RESPECT TO BANKRUPTCY
ADMINISTRATOR’S MOTION TO DISMISS

The debtor filed this individual – not joint – chapter 7 bankruptcy in November 2025. The Bankruptcy Administrator has filed a motion (doc. 18) to dismiss the case under Bankruptcy Code § 707(b) because the debtor has not included her spouse’s income in her schedules, and, thus, the Bankruptcy Administrator is unable to perform a chapter 7 means test.

The chapter 7 means test is “used as a screening mechanism to determine whether a [c]hapter 7 proceeding is appropriate. Individuals who file for [chapter 7] bankruptcy . . . liquidate their nonexempt assets, rather than dedicate their future income, to repay creditors.” *See Ransom v. FIA Cars Servs., N.A.*, 562 U.S. 61, 65 n.1 (2011). “If the debtor’s [bankruptcy] petition discloses that h[er] disposable income as calculated by the means tests exceeds a certain threshold, the petition is presumptively abusive[,]” and the court may dismiss the case if the debtor cannot rebut the presumption. *See id.*

“The starting point for the [m]eans [t]est is current monthly income” *See In re Henderson*, No. 23-50381-BEM, 2024 WL 322170, at *6 (Bankr. N.D. Ga. Jan. 25, 2024) Bankruptcy Code § 101(10A) defines a debtor’s “current monthly income” (“CMI”) to include “any amount paid by any entity other than the debtor . . . on a regular basis for the household expenses of the debtor” “CMI includes the amounts a [non-filing] spouse regularly contributes to a debtor’s household expenses.” *See In re Lightsey*, 374 B.R. 377, 380 (S.D. Ga.

2007); *see also In re Kulakowski*, No. 10-bk-07286-CED, 2011 WL 3878386, at *4-5 (Bankr. M.D. Fla. Sept. 2, 2011).

“When a debtor and a non-filing spouse live in the same household, the [required bankruptcy] form for calculating CMI includes all income of the non-filing spouse.” *See In re Henderson*, 2024 WL 322170, at *6. The debtor can then take an adjustment to her CMI – known as the marital adjustment – by subtracting any part of the non-filing spouse’s income not used to pay for household expenses. *See id.* In other words, “a married debtor who resides with their spouse [must] report all of the non-filing spouse’s income” but is then permitted “to deduct that portion of the non-filing spouse’s income that is not regularly contributed to the household expenses of the debtor” *See In re Tapply*, 652 B.R. 124, 130 (Bankr. D. Mass. 2023); *see also In re Persaud*, 468 B.R. 251, 262 (E.D.N.Y. 2013) (the means test includes “in debtor’s income all of a non-[filing] spouse’s income, but allow[s] a debtor to deduct . . . any income of debtor’s spouse that was not paid on a regular basis towards the household expenses of the debtor”).

The court took sworn testimony from the debtor on March 17, 2026. The debtor testified that she was married and living with her husband at the time of her bankruptcy filing, that she does not work, and that her husband gives her money every month for her living expenses. She further testified that her husband refuses to provide information about his income and that her attempts to get that information has caused marital problems.

This is an unfortunate marital situation. But a married debtor like the debtor here “must report a non-filing spouse’s income on [the m]eans [t]est even if the non-filing spouse does not contribute to household expenses.” *See In re Robinson*, No. 1202313EE, 2013 WL 5567265, at *5 (Bankr. S.D. Miss. Oct. 9, 2013). She cannot exclude her non-filing spouse’s income from

her schedules and simply ask the court (and the Bankruptcy Administrator) to take her word on what the spouse contributes to the household expenses, which is essentially what the debtor here is asking.

The debtor's inability – due to her husband's noncooperation – to comply with the law discussed herein requires dismissal of this case. But the court will give the debtor an opportunity to amend her schedules to include her husband's income and proceed with this case if she can. The court therefore resets the motion to dismiss (doc. 18) for a final hearing on May 19, 2026, at 8:30 a.m., Courtroom 2 West, 113 St. Joseph Street, Mobile, AL 36602. The court does not intend to take additional testimony or hear additional argument on May 19, 2026. Instead, if the debtor has not filed amended schedules by May 12, 2026, the court intends to grant the Bankruptcy Administrator's motion to dismiss on May 19, 2026.

Dated: April 10, 2026


HENRY A. CALLAWAY
U.S. BANKRUPTCY JUDGE