

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

IN RE:

LATONYA K. HARRIS,

Debtor.

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Case No. 16-03115

ORDER DENYING MOTIONS TO AVOID LIENS

This case is before the Court on the debtor's motions (docs. 12 and 13) to avoid the liens of the University of South Alabama Hospital and the State of Alabama Department of Revenue pursuant to Bankruptcy Code § 522(f). That section allows a debtor to avoid a "judicial lien" to the extent that it impairs his or her exemptions. A judicial lien is a "lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding." 11 U.S.C. § 101(36). However, "liens that arise by operation of law without judicial action are not 'judicial liens' for purposes of § 522(f)(1) because they are not obtained through the judicial process." In re Washington, 242 F.3d 1320, 1323 (11th Cir. 2001).

The State of Alabama lien is for unpaid taxes pursuant to Alabama Code §§ 40-1-2 and 40-29-20, and the USA Hospital lien is a hospital lien on tort claims pursuant to Alabama Code § 35-11-370 et seq. Both are statutory liens which are not the result of judicial action. Because neither is a "judicial lien," they cannot be avoided pursuant to Bankruptcy Code § 522(f). The motions to avoid liens are thus denied.

Dated: October 24, 2016


HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE