

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

In re:)
)
MELANIE KNIGHT,) Case No. 15-00795
)
Debtor.)

In re:)
)
GLORIA DIXON,) Case No. 15-01143
)
Debtor.)

ORDER

These cases are before the court on the debtors' separate motions for waiver of the \$335 filing fee. The debtor in each case is represented by Legal Services Alabama. The bankruptcy administrator objected to the motions, contending that at the time of filing the debtors had exempt funds in the form of income tax refunds which could be or could have been used to pay the filing fees.

This court has jurisdiction pursuant to 28 U.S.C. § 1334(b) and 28 U.S.C. § 157(b). This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).

The bankruptcy administrator does not dispute that each of the debtors has income less than 150% of the official poverty line, thus meeting the first prong of 28 U.S.C. § 1930(f)(1). The remaining issue is whether the debtors are unable to pay the filing fee in installments.

Melanie Knight filed Chapter 7 on March 12, 2015 and that same day moved for a waiver of the filing fee. Her Schedule B reflects a Wells Fargo savings account with a balance of \$1,200, which the parties agreed represented a tax refund in that amount which the debtor has

claimed as exempt. Ms. Knight also has claimed as exempt returned garnished funds in the amount of \$1,109.73.

Debtor Gloria Dixon filed Chapter 7 on April 10, 2015 and filed a motion for waiver of the filing fee that same day. She received an income tax refund, including earned income tax credits of \$6,037, shortly before the petition. She testified that she paid \$2,000 to catch up rent in the amount of \$500 a month to her son, with whom she lives, and paid \$2,000 to a private attorney hired to represent her daughter in collecting child support. Ms. Dixon had \$1,500 remaining in her checking account at the time of the petition, according to her Schedule B.


The court agrees with the holding of In re Coleman, 2011 WL 710456 (Bankr. M.D. Ala. 2011) that in each of these cases the debtor's possession of exempt funds at or shortly before the time of the petition which could be used to pay the filing fee keeps her from meeting the second prong of 28 U.S.C. § 1930(f)(1). However, given that they are already several weeks into their cases and that the debtors have to some extent spent the funds that they could have used to pay the filing fee, the court will extend the installment payment period out to the maximum 180 days from their respective petition dates. Fed. R. Bankr. P. 1006(b)(2).

The court thus orders as follows:

1. The applications by each of the debtors to have the Chapter 7 filing fee waived is denied.
2. Debtor Melanie Knight is to pay the filing fee according to the following terms: \$110.00 on or before July 8, 2015; \$110.00 on or before August 8, 2015; and \$115.00 on or before September 8, 2015.

3. Debtor Gloria Dixon is to pay the filing fee according to the following terms:
\$110.00 on or before August 4, 2015; \$110.00 on or before September 4, 2015; and \$115.00 on
or before October 4, 2015.

Dated: May 27, 2015


HENRY A. CALLAWAY
U.S. BANKRUPTCY JUDGE

United States Bankruptcy Court

Southern District of Alabama

Case No. 15-00795

Chapter 7

In re:

Melanie Knight
1352 Barker Dr. E
Mobile, AL 36608

Social Security No.:
xxx-xx-8747

ORDER ON DEBTOR'S APPLICATION FOR WAIVER OF THE CHAPTER 7 FILING FEE

Upon the consideration of the debtor's "Application for Waiver of the Chapter 7 Filing Fee", the court orders that the application be:

GRANTED

This order is subject to being vacated at a later time if developments in the administration of the bankruptcy case demonstrate that the waiver was unwarranted.

DENIED

The debtor shall pay the chapter 7 filing fee according to the following terms:

\$ 110.00 on or before July 8, 2015 .

\$ 110.00 on or before August 8, 2015 .

\$ on or before .

\$ 115.00 on or before September 8, 20 .

Until the filing fee is paid in full, the debtor shall not make any additional payment or transfer any additional property to an attorney or any other person for services in connection with this case.

IF THE DEBTOR FAILS TO TIMELY PAY THE FILING FEE IN FULL OR TO TIMELY MAKE INSTALLMENT PAYMENTS, THE COURT MAY DISMISS THE DEBTOR'S CASE.

Dated: 5/27/15


HENRY A. CALLAWAY
U.S. BANKRUPTCY JUDGE