

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

In re:)	
)	
Beverly Miller,	)	16-02777-HAC-13
Marcus Jones,	)	16-03180-HAC-13
Isaiah Harris, III,	)	16-01977-HAC-13
Gina F. Holloway and Winford L. Holloway, Jr.,	)	16-02710-JCO-13
Stancil T. Wilson,	)	16-03010-HAC-13
Laura A. Thomas,	)	16-03186-JCO-13
Kimberly Morris,	)	16-02664-HAC-13
Shedrian Eugene Burnette,	)	16-03209-JCO-13
Famous Andrae Abston,	)	16-03211-HAC-13
Tammy Richard Trimble,	)	16-03238-HAC-13
Joseph Harris and Kathleen Harris,	)	16-00563-HAC-13
Jaysen Taldon,	)	16-01654-JCO-13
Marvin R. Davis,	)	16-02641-HAC-13
)	
Debtors.)	

ORDER

These cases are before the Court on the Chapter 13 trustee’s objections to confirmation. The undersigned judges held a consolidated hearing because they involve a common issue. The debtors’ plans propose to pay unsecured claims in full but without interest. The Chapter 13 trustee contends that if debtors do not propose to pay all of their projected disposable income into the plan as provided by § 1325(b)(1)(B), they must pay postpetition interest on unsecured claims under Bankruptcy Code § 1325(b)(1)(A).

The legal issue is whether the “as of the effective date of the plan” language in § 1325(b)(1) refers to (1) the date the court determines whether the subsection’s requirements are met or (2) the date the amount to be distributed to unsecured creditors is valued. Well-reasoned cases have come down on both sides. See e.g., In re Stewart-Harrel, 443 B.R. 219 (Bankr. N.D. Ga. 2011) (date of determination, thus postpetition interest not required); In re Barnes, 528 B.R.

501 (Bankr. S.D. Ga. 2015) (date of valuation, thus postpetition interest is required). The undersigned judges adopt the ruling and rationale of Stewart-Harrel and hold that postpetition interest on an unsecured claim is not required under § 1325(b)(1)(A). In addition to the reasons set out in that case, the undersigned believe that if Congress had intended to deviate from the general rule under § 502(b)(2) that unsecured claims do not receive postpetition interest, the language of the statute would have clearly stated so and there would probably be some supporting legislative history. See 8 Collier on Bankruptcy ¶ 1325.11[3] (16th ed.). Requiring postpetition interest on unsecured claims for the entire term of a plan also does not seem appropriate where the payments to unsecured creditors are getting stretched out for only a somewhat longer period than they would be if the debtor were paying all his disposable income from the outset -- not going from immediate payment to 60 months, for example. Unlike the hypothetical liquidation scenario under § 1325(a)(4), in the § 1325(b)(1)(A) situation there is no asset from which an unsecured creditor could theoretically get paid at the beginning of the case, only a stream of debtor's disposable income over time.

Unsecured creditors may be entitled to postpetition interest under the “best interest of creditors” test of Code § 1325(a)(4); however, that is not the issue here. The Court is also not ruling that a plan which proposes to pay unsecured claims at 100% without interest using less than all of the debtor's projected disposable income will always satisfy the “good faith” requirement of Code § 1325(a)(3). The Court will consider good faith objections on a case-by-case basis unless persuaded that a presumption of good faith based on a “bright-line” specified percentage of disposable income would be useful and appropriate.

The Chapter 13 trustee's objections based upon the plans' failure to provide for postpetition interest on unsecured claims are thus overruled. The Court is not reaching any other confirmation issues in this order.

Dated: February 14, 2017


HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE


JERRY C. OLDSHUE, JR.
U.S. BANKRUPTCY JUDGE