

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

IN RE:)
)
Samaria J Moore,) Case No. 18-4074
)
Debtor(s).)

ORDER GRANTING MOTION FOR DISCHARGE

This case is before the court on the motion for discharge (doc. 131) filed by the debtor. The court has reviewed the record and finds that the debtor meets the requirement of Bankruptcy Code § 1328(f). The debtor’s schedules and the proofs of claim filed in this case do not reflect that the debtor owes any domestic support obligation; the court thus finds that she meets the requirements of Bankruptcy Code § 1328(a). The court has also reviewed the debtor’s claimed exemptions and finds that the debtor meets the requirements of Bankruptcy Code § 1328(h).

Creditor Gulf Coast Federal Credit Union filed an objection to the debtor’s motion. It argues that the debtor is not entitled to a discharge because she is in postpetition arrears on her mortgage with the creditor. The debtor treated the mortgage in her chapter 13 plan as a “cure and maintain” under Code § 1322(b)(5); in other words, the trustee was to pay any prepetition arrearage but the debtor was to make the ongoing postpetition mortgage payments directly. The creditor does not contend that the prepetition arrearages have not been cured – only that the debtor is behind on her postpetition direct payments.

Under Code § 1328, the court “shall grant the debtor a discharge of all debts provided for by the plan” once the debtor has completed “all payments under the plan” There is a split of authority on this issue. Some courts hold that “payments under the plan” include direct mortgage payments; others hold that such payments are not “payments under the plan.” The court adopts the reasoning of the court in *In re Simmons*, 608 B.R. 602 (Bankr. S.D. Ga. 2019), and finds that

postpetition “mortgage payments paid directly by [a] debtor are not ‘payments under the plan’ and a debtor’s failure to make such payments standing alone does not merit . . . the denial of [a debtor’s] discharge, and most likely the loss of [the debtor’s] home.” *See id.*, at 608. The court therefore grants the debtor’s motion for discharge, which will be entered by separate document.

Dated: March 23, 2026


HENRY A. CALLAWAY
U.S. BANKRUPTCY JUDGE