

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

IN RE:)
)
DOMINIQUE LAVON THORNTON,) Case No. 20-11303
)
Debtor.)

AMENDED ORDER OVERRULING TRUSTEE'S OBJECTION TO CLAIM (DOC. 24)

The court's order (doc. 31) entered on September 24, 2020 is amended to read as follows:

This case came before the court on the chapter 13 trustee's objection to claim no. 2 by creditor Wells Fargo Home Mortgage ("Well Fargo") related to a real estate mortgage. The trustee objected to Wells Fargo's claim because "[t]he mortgage loan documents are not listed in debtor's name." The documents attached to the proof of claim show that the mortgage is in the name of the debtor's mother but that the debtor inherited a one-half interest in the real estate at issue on his mother's death. The debtor is not personally liable on the mortgage debt, although his interest in the real property is property of the estate.

In *Johnson v. Home State Bank*, 501 U.S. 78 (1991), the United States Supreme Court held that a mortgage for which the debtor was not personally liable but that encumbered estate property was still a "claim" subject to inclusion in a chapter 13 plan. The same analysis applies here. The court thus overrules the trustee's objection and allows claim no. 2 of Wells Fargo as filed.

Dated: September 24, 2020


HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE