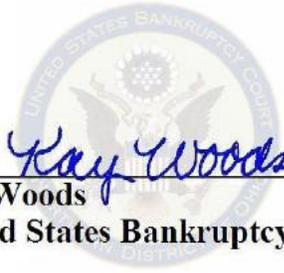


IT IS SO ORDERED.

Dated: December 17, 2015
12:05:35 PM



Kay Woods

 Kay Woods
 United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:

JOHN T. McCOY,

Debtor.

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CASE NUMBER 11-43318

CHAPTER 7

HONORABLE KAY WOODS

ORDER DENYING MOTION FOR AN ORDER TO REOPEN CASE

On November 18, 2011, Debtor John T. McCoy, by and through counsel Carlo A. Ciccone, Esq., filed a voluntary petition pursuant to chapter 7 of the Bankruptcy Code. On that same date, the Debtor filed (i) Schedule A – Real Property, in which the Debtor scheduled a fee simple interest in his residence located at 1043 Tod Avenue, Girard, Ohio; and (ii) Schedule E – Creditors Holding Unsecured Priority Claims, in which the Debtor improperly scheduled seven judgment liens filed in the Trumbull County Court of Common Pleas. (Doc. 1, Sched. A at 1 and Sched. E at 1-2.)

On February 1, 2012, the Chapter 7 Trustee filed Report of No Distribution (Doc. 11) and represented that this is a no-asset case. The Debtor received a discharge on March 20, 2012 (Doc. 15), and this case was closed on March 23, 2012 (Doc. 17).

On December 2, 2015 – *i.e.*, more than three and one-half years after this case was closed – the Debtor filed Motion for an Order to Reopen Case (Doc. 18), which is presently before the Court. The Debtor requests the Court to reopen this case and states for cause, “Movant recently learned that eight (8) judgment liens were filed against his residence prior to the Petition Date. Movant, through counsel, wishes to seek an order avoiding said judgment liens pursuant to 11 U.S.C. § 522(f)(1)(A).” (Mot. ¶ 5.)

The Court held a hearing on the Motion on December 17, 2015, at which Mr. Ciccone appeared on behalf of the Debtor. Mr. Ciccone represented to the Court that, although the judgment liens were improperly scheduled, the Debtor and Mr. Ciccone had knowledge of the judgment liens when this case was filed.¹ Mr. Ciccone stated that he made the strategic decision not to seek to avoid the judgment liens while this case was pending because the Debtor had previously intended to surrender his residence. Mr. Ciccone provided no further explanation why he did not seek to avoid the judgment liens on behalf of the Debtor while this case was pending.

¹ Mr. Ciccone offered no explanation why seven judgment liens were included in Schedule E, but the Motion references eight judgment liens.

The Court finds that the Debtor, by and through Mr. Ciccone, has failed to state cause to reopen this case, which has been closed for more than three and one-half years. The Debtor and Mr. Ciccone had knowledge of the judgment liens when this case was filed, but Mr. Ciccone did not seek to avoid the judgment liens while this case was pending. As a consequence, the Court hereby denies the Motion for an Order to Reopen Case.

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