

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document has been entered electronically in the record of the United States Bankruptcy Court for the Northern District of Ohio.



Dated: October 09 2009

Mary Ann Whipple  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

In Re:	)	Case No. 09-34441
	)	
Erik Bardwell,	)	Chapter 7
	)	
Debtor.	)	
	)	JUDGE MARY ANN WHIPPLE

**ORDER**

This Chapter 7 case came before the court for hearing on October 6, 2009, on Debtor’s Request for Dismissal (“Motion”). [Doc. # 9]. Debtor’s seeks to voluntary dismiss his Chapter 7 case.

Section 707(a) of the Bankruptcy Code provides that the court may dismiss a Chapter 7 case “only for cause.” 11 U.S.C. § 707(a). This provision stands in meaningful and marked contrast to the liberal voluntary dismissal provision applicable to Chapter 13 cases, which states that “[o]n request of the debtor at any time...the court shall dismiss a case under this chapter.” 11 U.S.C. § 1307(b). In the view of most courts, including this one, a Chapter 7 debtor may not “automatically” dismiss a case on request under § 707(a). *In re MacDonald*, 73 B.R. 254, 256 (Bankr. N.D. Ohio 1987). Courts have denied a debtor’s request to voluntarily dismiss a Chapter 7 case where creditors have been or will be prejudiced by the dismissal. *See, e.g., MacDonald*, 73 B.R. at 256; *In re Banks*, 35 B.R. 59, 60-61 (Bankr. D. Md. 1983). Courts have also denied a debtor’s request to voluntarily dismiss a case when property has been or will be obtained by the Trustee that will satisfy at least part of the debtor’s obligations. *See e.g., In re Klein*, 39 B.R. 530 (Bankr. E.D. N.Y. 1984) (debtor’s reason for dismissal was settlement of pending lawsuit, which

court rejected); *In re Blackmon*, 3 B.R. 167 (Bankr. S.D. Ohio 1980). As the court noted in *Blackmon*, a debtor who chooses to place oneself in bankruptcy may not always choose to terminate the proceedings, even if unforeseen consequences arise. *Id.* at 169. And so it is here.

Debtor states no basis or reason for dismissal. Counsel reports that he is not aware of a reason, other than that Debtor does not want to pursue this case any further. The court also notes that Debtor has not appeared at a meeting of creditors to allow examination by the Trustee so as to determine whether there are assets for administration, or to otherwise determine whether creditors and other parties in interest would be prejudiced by dismissal. Debtor has thus not shown cause for dismissal. The court thus expects that Debtor will appear at the meeting of creditors for examination. If he then desires to seek dismissal again, and can state cause therefore, he may file another motion to dismiss, as the denial of the instant Motion is without prejudice.

Based on the foregoing reasons and authorities,

**IT IS ORDERED** that Debtor's Request for Dismissal [Doc. #9] is **DENIED, without prejudice.**