

**Dated: April 07, 2023**  
**The following is ORDERED:**



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**Denise E. Barnett**  
**UNITED STATES BANKRUPTCY JUDGE**

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**UNITED STATES BANKRUPTCY COURT FOR  
THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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In re:

Tevina McGee,  
Debtor.

Case No.: 23-20342  
Chapter 13

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**ORDER DENYING DEBTOR'S MOTION TO EXTEND THE AUTOMATIC STAY**

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This case came before the Court on Tevina McGee's ("Debtor's") *Verified Motion to Extend Automatic Stay - Expedited Hearing Requested* ("Motion to Extend Stay"). For the reasons explained in this order, the Court finds that the Motion to Extend Stay was untimely filed and concludes that the motion should be denied.

On August 12, 2022, Debtor filed a Chapter 13 petition, commencing case number 22-23353 (“2022 Case”). The 2022 Case was dismissed on January 13, 2023. On January 19, 2023, Debtor filed a new Chapter 13 petition, commencing the present Chapter 13 case.<sup>1</sup>

On April 3, 2023, about eighty (80) days after the petition date of the present case, Debtor filed the Motion to Extend Stay.<sup>2</sup>

Pursuant to subsection 362(c)(3)<sup>3</sup> of the Code, with individual debtors, the automatic stay terminates with respect to the debtor on the thirtieth (30th) day in a newly filed case when one filed case was pending and then dismissed within one year of the newly filed case. Upon notice and hearing, the bankruptcy court may extend or continue the automatic stay as outlined in subsection 362(c)(3). However, the hearing on the motion to extend the automatic stay must be completed before the expiration of the 30-day period.<sup>4</sup>

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<sup>1</sup> ECF No. 1.

<sup>2</sup> ECF No. 18.

<sup>3</sup> Section 362(c)(3)(A) and (B) of the Bankruptcy Code reads:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

...

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)--

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing *completed before the expiration of the 30-day period* only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed[.]

11 U.S.C. § 362(c)(3) (2023) (emphasis added).

<sup>4</sup> *In re Franklin*, 627 B.R. 661, 662 (Bankr. E.D. Mich. 2021) (“Under 11 U.S.C. § 362(c)(3)(B), in order for the Court to extend the automatic stay, a hearing on a motion to extend the automatic stay must be completed within 30

Here, Debtor's 2022 Case was pending and then was dismissed January 13, 2023, within the year of the filing of the present case. The automatic stay remained in place for 30 days after the petition date. The automatic stay was terminated with respect to the Debtor. This Court is not able to continue or extend the automatic stay that has been terminated with respect to the Debtor. Any motion to extend or continue the stay should have been filed and heard before the expiration of the 30-day period. Debtor's Motion to Extend Stay was filed about well beyond the 30-day deadline. The Motion to Extend Stay was untimely filed and should be denied.

Accordingly, it is **ORDERED:**

*The Verified Motion to Extend Automatic Stay - Expedited Hearing Requested* is denied.

**Copies to be served on:**

Debtor  
Debtor's attorney  
Chapter 13 Trustee  
All creditors on the Matrix

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days after the filing of the case."); *see also In re McKeal*, 14-62113, 2014 WL 6390712, \*2 (Bankr. N.D. Ohio Nov. 14, 2014) ("If the debtor provides notice and hearing within the thirty-day window, and also convinces the court 'that the filing of the later case is in good faith,' the automatic stay may be extended beyond the thirty-day deadline.").