



Dated: June 13, 2024
The following is ORDERED:

Denise E. Barnett
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re:

Frederick James Elam,
Debtor.

Case No. 23-25274
Chapter 13

ORDER DENYING DEBTOR'S
MOTION TO REFUND BANKRUPTCY FEE

This case came before the Court on June 4, 2024, at 10:00 a.m., on Frederick James Elam's ("Debtor's") *Motion to Refund Bankruptcy Fee*. (ECF No. 48). The issue before the Court is whether Debtor may seek a refund of the \$313 filing fee which is an administrative fee that debtors are required to pay to commence their petition under the Bankruptcy Code. For the reasons stated below, the Court denies Debtor's Motion to Refund Bankruptcy Fee.

On October 24, 2023, Debtor filed his Chapter 13 petition.¹ On February 5, 2024, the Chapter 13 Trustee filed a Trustee's Motion to Dismiss Case Due to Failure to Pay, with a hearing date of February 27, 2024, at 9:00 a.m.² Debtor's case was dismissed on February 27, 2024, for failure to pay into his chapter 13 case. When the case was dismissed, the filing fee was not paid.

On March 12, 2024, Debtor filed a *Motion to Reinstate Case*, with a hearing date of March 26, 2024.³ The motion to reinstate was scheduled for hearing multiple times and eventually set for a special hearing for May 14, 2024, at 1:30 p.m.

On May 6, 2024, eight days before the special hearing, Debtor paid his filing fee in full in the amount of \$313.

On May 14, 2024, a hearing was conducted on the Debtor's motion to reinstate. The Court denied the Debtor's motion to reinstate the Chapter 13 case and entered an order on the motion.⁴

On May 24, 2024, ten days after the hearing on the motion to reinstate the case, Debtor filed a *Motion for Refund of Bankruptcy Fee*.⁵ On June 4, 2024, the Court conducted a hearing

¹ ECF No. 1.

² ECF No. 27.

³ ECF No. 36.

⁴ A separate order was entered outlining why the Court denied the motion to reinstate the bankruptcy case.

⁵ ECF No. 48.

on the motion for refund of the filing fee. At the hearing, Debtor's two daughters were present, and one of his daughters spoke on Debtor's behalf because of his stated hearing impairment. Debtor's daughter explained that because her father's case was not reinstated, he would like a return of the \$313 filing fee, because Debtor and his non-filing spouse are on fixed income and \$313 is a lot of money that they would like returned.

Section 1930 of title 28 governs bankruptcy filing fees.⁶ Subsection 1930(b) authorizes the Judicial Conference of the United States to establish fees in cases under title 11, and consequently the *Bankruptcy Court Miscellaneous Fee Schedule* outlines the fees to be charged by the bankruptcy courts for various matters. Paragraph 8 of the *Bankruptcy Miscellaneous Fee Schedule* sets forth the administrative fee for filing a petition under different chapters under the Bankruptcy Code.

As stated in the *Bankruptcy Fee Compendium III*, "The Judicial Conference prohibits refunding the fees due upon filing. The Conference prohibits the clerk from refunding the fees even if the party filed the case in error, and even if the court dismisses the case or proceeding. Nevertheless, the clerk must refund any fee collected without authority."⁷ A fee refund may be possible only if the fee was collected without authority, or the fee was collected due to administrative error on the part of the Clerk's Office.⁸

⁶ See 28 U.S.C. 1930.

⁷ Bankruptcy Fee Compendium III (June 1, 2014, Edition), ¶ 8, p. 16; <https://www.ohnb.uscourts.gov/file-list/fee-compendium-0> [<https://perma.cc/8YNV-5NZ2>].

⁸ *In re Butchart*, No. 19-33243, 2023 WL 4414417, at *2 (Bankr. N.D. Ohio July 7, 2023) (discussing the denial of a motion for refund of a filing fee).

There is no legal support for refunding the \$313 administrative filing fee for Debtor's Chapter 13 case because the case was dismissed.

Accordingly, it is **ORDERED:**

Motion for Refund of Bankruptcy Fee is DENIED.