

Dated: January 06, 2025
The following is ORDERED:



Denise E. Barnett
UNITED STATES BANKRUPTCY JUDGE

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

In re:

Julianka Michelle Jackson,
Debtor.

Case No.: 24-22894
Chapter 7

**MEMORANDUM OPINION AND ORDER
GRANTING DEBTOR'S MOTION FOR VOLUNTARY DISMISSAL OF
CHAPTER 7, OR ALTERNATIVELY, TO CONVERT CASE TO CHAPTER 13**

This case came before the Court on Julianka Michelle Jackson's ("Ms. Jackson's") *Motion for Voluntary Dismissal of Chapter 7, or in the Alternative, to Convert Case to Chapter 13* ("Motion to Dismiss or Convert") and Chapter 7 Trustee Brian Matthew Glass's ("Mr. Glass's") *Trustee's Objection to Motion for Voluntary Dismissal of Chapter 7 or in the Alternative, to Convert Case to Chapter 13* ("Response").¹ On September 24, 2024, the Court conducted an evidentiary hearing on Ms. Jackson's Motion to Dismiss or Convert and Mr. Glass's Response. Upon review of the record and arguments from the parties, the Motion to Dismiss or Convert is granted for the reasons outlined below.

¹ ECF Nos. 20 and 24.

I. PROCEDURAL AND FACTUAL BACKGROUND

A. Procedural History

On June 17, 2024 (“Petition Date”), Ms. Jackson filed a voluntary petition, schedules, and statements, commencing a case under chapter 7 of the Bankruptcy Code (“the Code”).² On August 5, 2024, Mr. Glass filed an application to employ a realtor with the intention of selling Ms. Jackson’s home located at Wemberly Drive, Memphis, TN 38125 (“House”).³ To date, no order authorizing employment of the realtor has been entered.

On August 12, 2024, Ms. Jackson filed her Motion to Dismiss or Convert. On August 14, 2024, Mr. Glass filed his Response objecting to Ms. Jackson’s Motion to Dismiss or Convert contending that the sale of the House would lead to a substantial distribution to the general unsecured creditors.⁴

On August 14, 2024, Mr. Glass filed a *Notice of Need to File Proof of Claim Due to Recovery of Assets*, establishing a bar date based on anticipated recovery of assets in the case.⁵ On September 10, 2024, Ms. Jackson objected to Claims 1⁶, 2⁷, and 3.⁸ A hearing was held on October 22, 2024, and the Court deferred ruling on the objections until after it ruled on Ms. Jackson’s Motion to Dismiss or Convert.⁹

² ECF No. 1.

³ ECF No. 19.

⁴ ECF No. 24.

⁵ ECF No. 25 (establishing bar date of November 12, 2024, for creditors to file claims and February 10, 2025, for government entities to file claims).

⁶ ECF No. 33.

⁷ ECF No. 32.

⁸ ECF No. 31.

⁹ ECF No. 59.

On September 24, 2024, the Court held an evidentiary hearing. At the conclusion of the evidentiary hearing, both parties were asked to submit post-hearing memoranda of law no later than October 15, 2025. Mr. Glass and Ms. Jackson filed their post-hearing memoranda on the 8th and 9th of October 2024, respectively.¹⁰

B. Schedules, Statements, and Evidentiary Hearing

Ms. Jackson's schedules show moderate assets, stable employment, and three dependents. Ms. Jackson owns a home with a stated value of \$272,000 and two automobiles (years 2010 and 2011), one of which is inoperable, with a stated combined value of \$5,250.¹¹ Her monthly expenses slightly exceed her income after taxes. Ms. Jackson has a monthly gross income of \$3,797.17 and income after taxes of \$3,374.89, and her monthly expenses total \$3,476.¹² For the operable automobile, Navy Federal Credit Union filed a proof of claim showing a value of \$5,575.00 and debt of \$8,967.27 (6.24% interest).¹³ Ms. Jackson's Schedule D shows creditors holding secured claims for \$219,855.00, and Schedule E/F creditors holding unsecured claims of \$207,614.20.¹⁴

At the evidentiary hearing, Ms. Jackson presented testimonial and documentary evidence to the Court. Mr. Glass presented no evidence, other than stipulating to the tax appraiser's value of \$272,800 for the purposes of *ad valorem* tax assessment.¹⁵ Ms. Jackson testified that the value

¹⁰ ECF Nos. 68 and 69.

¹¹ ECF No. 44, Amended Schedule A/B.

¹² ECF No. 1.

¹³ Proof of Claim No. 1-1.

¹⁴ ECF No. 1.

¹⁵ Ms. Jackson's Motion to Dismiss or Convert ("Evidentiary hearing on Sept. 24, 2024"), Sept. 24, 2024, at 1:48 p.m.

of the House is less than \$272,800 because it is in disrepair.¹⁶ Ms. Jackson explained that the House had several issues, including a water leak that damaged the floors, a gas leak, mold,¹⁷ exposed pipes,¹⁸ and open walls.¹⁹ Ms. Jackson received an estimate of \$12,330 from a contractor to repair the walls and floors.²⁰ To repair the water leak, Ms. Jackson received an estimate of \$1,050 and had yet received an estimate to eradicate the mold.²¹ On May 12, 2024, Ms. Jackson notified her insurance company of the damage.²² It still has not been repaired.²³ A few days before the evidentiary hearing, Ms. Jackson followed up with the insurance company on the status of her claim.²⁴ Ms. Jackson learned that the adjuster assigned to her claim no longer worked at the insurance company.²⁵ Subsequently, the supervisor with the insurer assigned a new adjuster to Ms. Jackson's claim.²⁶ Ms. Jackson was not sure if the insurance company will pay for (or reimburse) the cost of the needed repairs.²⁷

Ms. Jackson last filed for bankruptcy twenty (20) years ago.²⁸ She confirmed that she had not previously converted her case from another chapter and that she believes she is eligible for

¹⁶ *Id.* at 201.

¹⁷ Ms. Jackson's Ex. 4.

¹⁸ Ms. Jackson's Ex. 5.

¹⁹ *Id.* at 1:50 p.m.; Ms. Jackson's Ex. 3.

²⁰ *Id.* at 1:53 p.m.; Ms. Jackson's Ex. 1.

²¹ *Id.*; Ms. Jackson's Ex. 2.

²² *Id.* at 2:08 p.m.

²³ *Id.*

²⁴ *Id.* at 2:10 p.m.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 2:09 p.m. Mr. Glass also told the Court that Ms. Jackson's testimony was the first time he had heard of the issues with the House. *Id.* at 2:34 p.m.

²⁸ *Id.* at 2:01 p.m.

chapter 13.²⁹ Ms. Jackson further testified that there were no pending foreclosure proceedings or creditor lawsuits, and that she was not trying to harm her creditors.³⁰

Mr. Glass offered no testimonial or documentary evidence to establish the value of the House or to rebut Ms. Jackson's evidence. In his closing argument, Mr. Glass referenced his application to employ a realtor who planned to list the House on the market for at least \$375,000.³¹

C. Parties' Positions

The Court now summarizes the parties' legal positions based on their closing arguments at the evidentiary hearing and respective post-trial memoranda.³²

1. Ms. Jackson: Court Should Allow Debtor to Voluntarily Dismiss the Chapter 7 Case Under Subsection 707(a) Or to Convert to Chapter 13 Under Section 706.

Ms. Jackson contends that the case may be dismissed under subsection 707(a).³³ When a debtor seeks to voluntarily dismiss their case under subsection 707(a), the court must balance the interests of the debtor and the creditors.³⁴ The debtor has an interest in a fresh start while the creditors have an interest in not being prejudiced or delayed by dismissal.³⁵ Prejudice or delay occurs when dismissal of the case would negatively affect a creditor's rights against the debtor.³⁶ Examples include delaying repayment or hindering pending eviction actions.³⁷

²⁹ *Id.* at 2:02 p.m.

³⁰ *Id.*

³¹ *Id.* at 2:13 p.m.

³² ECF Nos. 68 and 69.

³³ ECF No. 69, at 2.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 3.

³⁷ *Id.*

Ms. Jackson argues that the creditors would not be prejudiced or delayed by dismissal because there would be no money left for the creditors after liquidating the House.³⁸ The House is worth at most \$272,800; the House secures a mortgage of \$210,646; and Ms. Jackson claims a \$35,000 homestead exemption, leaving \$27,154. Before selling the House, it would likely need to be repaired, which would cost at least \$13,330.³⁹ Before distributing the proceeds, Mr. Glass and the realtor would be paid.⁴⁰ After accounting for all the costs, there would likely be no funds left to distribute to the general unsecured creditors.⁴¹ Further, there are no pending proceedings against Ms. Jackson.⁴² So dismissal would not prejudice or hinder the creditors.⁴³ Finally, selling the House only to pay the secured creditor and the administrative fees would not facilitate Ms. Jackson's fresh start.⁴⁴ In sum, Ms. Jackson argues there is cause to dismiss the case because it would not prejudice or delay the creditors and denying dismissal is against her interest in a fresh start.

Turning to a debtor's ability to voluntarily convert from chapter 7 to chapter 13, Ms. Jackson argues that she may convert her case to chapter 13 under section 706.⁴⁵ A debtor may convert a case if the debtor has not previously converted the case and the debtor is eligible to file under the other chapter.⁴⁶ A debtor is ineligible to file under chapter 13 if the case could be

³⁸ *Id.* at 4.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* at 5.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 6.

⁴⁶ *Id.*

dismissed for cause under subsection 1307(c).⁴⁷ Ms. Jackson addressed all eleven (11) subsections of subsection 1307(c) and argued that none of them were present.⁴⁸ There is cause to dismiss under subsection 1307(c) if the debtor has acted in bad faith.⁴⁹ Ms. Jackson argues that Mr. Glass did not establish bad faith and that there is no evidence of bad faith in the record.⁵⁰

2. *Mr. Glass: Ms. Jackson Cannot
Voluntarily Dismiss or Convert Her Chapter 7 Case.*

Mr. Glass contends that Ms. Jackson did not meet her burden of showing cause to voluntarily dismiss the case because she did not show that dismissal would not prejudice or delay the creditors.⁵¹ Relying on a case out of the bankruptcy court in the Eastern District of Tennessee, Mr. Glass asserted that all creditors must affirmatively assent for a debtor to voluntarily dismiss a case.⁵²

Mr. Glass argues that it is the debtor's burden to show that there is no bad faith under subsection 1307(c).⁵³ The Sixth Circuit Court of Appeals has listed twelve factors to determine whether the debtor has acted in bad faith under subsection 1307(c).⁵⁴ According to Mr. Glass, because Ms. Jackson did not submit any evidence to satisfy the factors from the Sixth Circuit case, she did not meet her burden and cannot convert her case.⁵⁵

⁴⁷ *Id.*

⁴⁸ *Id.* at 6-7.

⁴⁹ *Id.* at 7.

⁵⁰ *Id.* at 8.

⁵¹ ECF No. 68, at 2.

⁵² *Id.* at 3.

⁵³ *Id.*

⁵⁴ *Id.* at 3-4 (citing *Alt v. United States (In re Alt)*, 305, F.3d 413, 419 (6th Cir. 2002)).

⁵⁵ *Id.* at 4-5.

In Mr. Glass’s closing argument, he contended that because Ms. Jackson’s schedules showed a negative monthly income, she is seeking to convert in bad faith.⁵⁶ Since Ms. Jackson’s net income is negative, she would not be able to propose a viable plan and her case would be reconverted to chapter 7.⁵⁷

II. LEGAL DISCUSSION⁵⁸

Before the Court is whether this Debtor should be allowed to dismiss her chapter 7 case, or alternatively, convert her chapter 7 case to a case under chapter 13 when the chapter 7 trustee is seeking to sell her home. It is well established that a debtor does not have an absolute right to dismiss a chapter 7 case.⁵⁹ Also, although a debtor may convert from chapter 7 to chapter 13 if the case has not been previously converted, such conversion may be challenged if it is done in bad faith.⁶⁰ As for the reasons fully discussed below, Ms. Jackson will not prejudice her creditors with a voluntary dismissal of her case, and the record failed to show any evidence that conversion to chapter 13 would be done in bad faith.

A. Ms. Jackson’s Voluntary Dismissal of her Chapter 7 Case Would not Prejudice her Creditors.

A bankruptcy court may dismiss a chapter 7 case only after notice and a hearing and only for cause.⁶¹ The term “cause” is not defined in the Code, and subsection 707(a) has three

⁵⁶ Ms. Jackson’s Motion to Dismiss or Convert (“Evidentiary hearing on Sept. 24, 2024”), Sept. 24, 2024, at 2:38 p.m.

⁵⁷ *Id.*

⁵⁸ The Court has subject-matter jurisdiction under 28 U.S.C. § 1334(b). Venue is proper in this District. 28 U.S.C. § 1408 and 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A). The following shall constitute the court’s findings of fact and conclusions of the law in accordance with Rule 7052, Federal Rules of Bankruptcy Procedure.

⁵⁹ *Sicherman v. Cohara (In re Cohara)*, 324 B.R. 24, 27 (B.A.P. 6th Cir. 2005) (citing *Bartee v. Ainsworth (In re Bartee)*, 317 B.R. 362, 366 (B.A.P. 9th Cir. 2004)).

⁶⁰ *Marrama v. Citizens Bank*, 549 U.S. 365, 373 (2007).

⁶¹ 11 U.S.C. § 707(a) (2024).

enumerated examples of cause for dismissal (when a non-debtor is seeking dismissal).⁶² Courts, however, have developed three approaches to find cause for dismissal of a chapter 7 case beyond the enumerated examples; each differing in how they weigh prejudice to creditors.⁶³ The majority of courts balance the interests of the debtor and the creditors with an emphasis on avoiding potential prejudice to the creditors, using the following multi-factor test:

- (1) whether all of the creditors have consented;
- (2) whether the debtor is acting in good faith;
- (3) whether dismissal would result in a prejudicial delay in payment;
- (4) whether dismissal would result in a reordering of priorities;
- (5) whether there is another proceeding through which the payment of claims can be handled; and
- (6) whether an objection to discharge, an objection to exemptions; or a preference claim is pending.⁶⁴

Ms. Jackson bears the burden to prove cause for voluntarily dismissing her chapter 7 case, and that dismissal of her chapter 7 case will not prejudice her creditors.⁶⁵ Whether the debtor has shown cause to dismiss the case lies within the bankruptcy court's discretion.⁶⁶

⁶² The court may dismiss a case under this chapter only after notice and a hearing and only for cause, including—
(1) unreasonable delay by the debtor that is prejudicial to creditors;
(2) nonpayment of any fees or charges required under chapter 123 of title 28; and
(3) failure of the debtor in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by paragraph (1) of subsection 521(a), but only on a motion by the United States trustee. 11 U.S.C. § 707(a)(1)-(3) (2024). *See In re Dzersawski*, 528 B.R. 397, 403 (Bankr. E.D. Mich. 2015) (stating that the enumerated examples of cause for dismissal apply when a non-debtor is the movant).

⁶³ *Pinnick v. No Respondent (In re Pinnick)*, 598 B.R. 206, 209 (Bankr. W.D. Penn. 2019); and *In re Hall*, 15 B.R. 913, 917 (B.A.P. 9th Cir. 1981); (One approach requires plain legal prejudice, requiring the prejudice to creditors to be real and not potential, another approach requires a showing of any prejudice, which includes any potential prejudice to creditors. The majority approach lies in between the two, requiring the court to balance the interests of the debtor and creditors with an emphasis on avoiding prejudice to creditors).

⁶⁴ *In re Dzersawski*, 528 B.R. at 404 (outlining the relevant factors).

⁶⁵ *Cohara*, 324 B.R. at 27-28 (B.A.P. 6th Cir. 2005) (“The case law clearly places on the Debtor the burden of proving cause for voluntarily dismissing her chapter 7 petition[,]” and that dismissal will not prejudice the creditors) (citations omitted).

⁶⁶ *Dzersawski*, 528 B.R. at 403 (citing *In re Jabarin*, 395 B.R. 330, 337 (Bankr. E.D. Penn. 2008) (citations omitted)).

In this case, Ms. Jackson has satisfied her burden. None of the factors weigh against Ms. Jackson. Although no creditors have consented to dismissal, none have objected. Mr. Glass cited to *In re Harker*⁶⁷ to support his argument that all creditors must affirmatively agree to dismissal.⁶⁸ In *Harker*, the court explained that it would not infer consent to dismissal based on creditors failure to object to dismissal, not that the creditors must affirmatively consent to the debtor voluntarily dismissing the case.⁶⁹ There is no evidence of bad faith. There are no pending objections to discharge or exemptions, and there are no pending preference claims. Further, dismissal would not cause prejudicial delay in payment or the reordering of priorities. The only asset to be liquidated is Ms. Jackson's home. Ms. Jackson provided evidence establishing the value of the House. Mr. Glass did not rebut the evidence presented. The House is worth \$272,800. There is a mortgage on the House for \$210,646, Ms. Jackson has a \$35,000 homestead exemption,⁷⁰ the chapter 7 administrative costs would be at least \$15,140,⁷¹ and the cost of liquidation would include a six percent realtor fee of about \$16,368,⁷² totaling \$277,154. Additionally, there are possible other closing costs and property taxes. The sale of the House would result in no proceeds available for distribution to unsecured creditors, even before

⁶⁷ *In re Harker*, 181 B.R. 326, 328 (Bankr. E.D. Tenn. 1995).

⁶⁸ ECF No. 68, at 2.

⁶⁹ *In re Harker*, 181 B.R. at 328 (“The trustee generally has a better opportunity to determine the facts needed to weigh all factors relevant to whether a dismissal should be allowed. . . [T]his court is not inclined to infer assent to dismissal by creditors who may not possess knowledge of all relevant facts necessary to make an informed decision. The trustee should be permitted to object on behalf of unsecured creditors who do not affirmatively consent to dismissal.”).

⁷⁰ Tenn. Code Ann. § 26-2-301(a) (2024) (“An individual, whether a head of family or not, shall be entitled to a homestead exemption upon real property which is owned by the individual and used by the individual or the individual's spouse or dependent, as a principal place of residence. The aggregate value of such homestead exemption shall not exceed thirty-five thousand dollars (\$35,000)).”

⁷¹ 11 U.S.C. § 326(a) (estimated compensation for chapter 7 trustee based on amount distributed to “parties in interest, excluding the debtor, but including holders of secured claims”).

⁷² An estimate based on the standard 6% realtor fee.

considering all the needed repairs to the House (estimated over \$13,000), for which it is unclear if the homeowner's insurance will pay or reimburse some or all the repair costs. The general unsecured creditors would receive nothing in chapter 7, and so, dismissing the case would not cause prejudicial delay or reorder the priorities of creditors.

Nothing in the record supports the Trustee's position that a dismissal of this chapter 7 case will be prejudicial to the creditors. In his closing argument and post-trial memoranda, Mr. Glass mentioned that the application to employ the realtor stated that the House will likely be listed for the sale price of \$375,000 which is not evidence.⁷³ Ms. Jackson's testimony is the only evidence that establishes the value of the House.

In sum, Ms. Jackson's voluntary dismissal of her chapter 7 case would not prejudice her creditors. If the case is dismissed, the creditors would be in the same position they were in prior to the petition date and may individually pursue their claims against Ms. Jackson, as appropriate.

***B. Alternatively, Debtor may Convert her
Chapter 7 Case to a case Under Chapter 13.***

The "honest but unfortunate debtors" may convert their case to chapter 13.⁷⁴ To convert, the debtor must show that it is the debtor's first time converting the case and that the debtor qualifies for chapter 13.⁷⁵ Even if a debtor qualifies to file a chapter 13 case, a party may oppose conversion to chapter 7 upon a showing of bad faith.⁷⁶

⁷³ *Cohara*, 324 B.R. at 28.

⁷⁴ *Marrama*, 549 U.S. at 372 (The Supreme Court held that subsection 706(d) provided authority to courts to deny a debtor's motion to convert a case when the debtor acted in bad faith or whose conduct otherwise constituted cause under subsection 1307(c)).

⁷⁵ 11 U.S.C. § 706(a) and (d) (2024).

⁷⁶ *In re Wood*, 601 B.R. 754, 762 (Bankr. W.D. Ky. 2019) (The court disallowed the debtor from converting her chapter 7 case to chapter 13 because the debtor worked on an as needed basis and was unable to show that her income was sufficiently stable and regular under subsection 101(30)).

A debtor is barred from converting their case to chapter 13 if they may not be a debtor under that chapter.⁷⁷ It is undisputed that Ms. Jackson has not previously converted her case,⁷⁸ she is an individual with regular income whose debt is within certain thresholds under subsection 109(e).⁷⁹ Accordingly, Mr. Glass has the burden to show that Ms. Jackson is seeking to convert to chapter 13 in bad faith.⁸⁰

A debtor cannot be a debtor under chapter 13 if that debtor's case could be converted to chapter 7 for "cause" pursuant to subsection 1307(c).⁸¹ Subsection 1307(c) has a non-exhaustive list of when there would be cause to dismiss or convert a chapter 13 case.⁸² Bad faith is not included in that list, but it is a common reason bankruptcy courts find cause to dismiss or convert a case.⁸³ When a debtor seeks to convert a case to chapter 13, the opposing party must show "cause" under subsection 1307(c).⁸⁴ When evaluating a debtor's motion to convert to chapter 13, courts apply the same bad faith (or lack of good faith) standard used in evaluating dismissal or conversion by a non-debtor under subsection 1307(c) because denying conversion is as harsh as dismissal under chapter 13—disallowing the debtor from proposing a plan to pay their debts over

⁷⁷ 11 U.S.C. § 706(d) (2024) ("Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.").

⁷⁸ 11 U.S.C. § 706(a) (2024) ("The debtor may convert a case under this chapter to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under sections 1112, 1208, or 1307 of this title. Any waiver of the right to convert a case under this subsection is unenforceable.").

⁷⁹ 11 U.S.C. § 101(3) ("The term "individual with regular income" means individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13 of this title, other than a stockbroker or a commodity broker."); *Marrama*, 549 U.S. at 372; *In re Wood*, 601 B.R. at 763.

⁸⁰ *In re Wood*, 601 B.R. at 763; (citing *Condon v. Bradley (In re Condon)*, 358 B.R. 317, 326 (6th Cir. B.A.P. 2007)) *see also Alt v. United States (In re Alt)*, 305 F.3d 413, 420 (6th Cir. 2002) ("In the context of section 1307(c), the burden of showing the debtor's lack of good faith is borne by the party seeking dismissal").

⁸¹ *Marrama*, 549 U.S. at 373.

⁸² *Id.*

⁸³ *Id.* at 374.

⁸⁴ *In re Wood*, 601 B.R. at 763.

time.⁸⁵ To determine whether the debtor has acted in bad faith, courts consider the totality of circumstances and examine a list of factors:

(1) [T]he debtor's income; (2) the debtor's living expenses; (3) the debtor's attorney fees; (4) the expected duration of the Chapter 13 plan; (5) the sincerity with which the debtor has petitioned for relief under Chapter 13; (6) the debtor's potential for future earning; (7) any special circumstances the debtor may be subject to, such as unusually high medical expenses; (8) the frequency with which the debtor has sought relief before in bankruptcy; (9) the circumstances under which the debt was incurred; (10) the amount of payment offered by debtor as indicative of the debtor's sincerity to repay the debt; (11) the burden which administration would place on the trustee; and (12) the statutorily-mandated policy that bankruptcy provisions be construed liberally in favor of the debtor.⁸⁶

Mr. Glass argued that Ms. Jackson's monthly income (on Schedules I and J) is insufficient to fund a chapter 13 plan, and therefore, her request to convert to chapter 13 is in bad faith. Mr. Glass, however, failed to provide evidence of the value of the House beyond the stipulated tax assessed value of \$272,800, to consider the condition of the house, and to account for the costs of liquidation (the realtor fee) and the administrative costs (the trustee compensation), which would consume any net proceeds from the sale of Ms. Jackson's House. Ms. Jackson's general unsecured creditors would likely receive nothing upon liquidation of Ms. Jackson's home. In a chapter 13 case, Ms. Jackson would pay her the mortgage and car loan, which were already accounted for in Ms. Jackson's monthly expenses.

Besides Ms. Jackson's income and expenses, all other factors weigh in her favor. Ms. Jackson is seeking to retain possession of her home where she and her three dependents reside. She is not seeking to avoid her creditors. Ms. Jackson has filed for bankruptcy before, but that was twenty (20) years ago. There is no reason to believe her attorney fees will be unreasonable. The attorneys in this district charge a standard "no look" fee for chapter 13 cases. Ms. Jackson's

⁸⁵ *Condon*, 358 B.R. at 325.

⁸⁶ *Alt*, 305 F.3d at 419.

estate would not burden the chapter 13 trustee any more than other chapter 13 debtors. There are no unique features to this chapter 13 case. There is nothing showing that Ms. Jackson obtained her debt through unscrupulous means. Finally, it is bankruptcy policy to construe provisions of the Code in favor of the debtor.⁸⁷ Denying Ms. Jackson the opportunity to propose a viable plan only because her current chapter 7 schedules show that her expenses slightly exceed her income after taxes by about \$101 runs counter to that policy. Further, it creates a harsher standard to convert to chapter 13 than to originally file for bankruptcy in chapter 13.⁸⁸ Simply put, Mr. Glass presented no evidence that Ms. Jackson seeking the alternative relief of conversion to chapter 13 constitutes bad faith.

III. CONCLUSION AND ORDER

For the reasons stated above, the Court finds and concludes that Ms. Jackson showed cause to dismiss her case under 11 U.S.C. § 707(a) and satisfied the requirements to convert under 11 U.S.C. § 706. Accordingly, it is **ORDERED**:

1. Ms. Jackson's *Motion for Voluntary Dismissal of Chapter 7 or in the Alternative, to Convert Case to Chapter 13* is **GRANTED**.

⁸⁷ Cases denying debtors' motions to convert from chapter 7 to chapter 13 contain egregious facts that are not present in this case. *See generally In re Wood*, 601 B.R. 754 (Bankr. W.D. Ky. 2019) (finding that the debtor was not forthcoming with the court and failed to list her interest in a real estate business, her income from the business, and her tax refund); *In re Dale*, 610 B.R. 524 (Bankr. E.D. N.C. 2019) (finding that the debtor intentionally misrepresented the value of a cause action as \$0.00); and *In re Williams*, 2023 Bankr. LEXIS 2063 (Bankr. S.D. Ga. 2023) (finding that the debtor acted in bad faith because she was familiar with the bankruptcy process and failed to disclose real property, life insurance proceeds, two vehicles, and bank accounts. The debtor also misrepresented her income).

⁸⁸ Generally, chapter 13 debtors have some time to propose a viable chapter 13 plan, and a party in interest may object to confirmation of the proposed chapter 13 plan if proposed plan appears infeasible. *See* 11 U.S.C. § 1325(a)(6) (2024) ("[T]he court shall confirm a plan if . . . the debtor will be able to make all payments under the plan and comply with the plan[.]"). Here, although Ms. Jackson's expenses are about \$101 over her income after taxes, she may be able to propose a plan that complies with subsection 1325(a)(6).

2. Within twenty-one (21) days from the entry of this *Opinion and Order*, Ms. Jackson, through counsel, shall submit a proposed order dismissing this Chapter 7 case or file her *Notice of Conversion to Chapter 13*.