Dated: August 18, 2026
The following is ORDERED:

Jennie D. Latta
Jennie D. Latta
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re
SANDRA LEIGH THOMAS,
Debtor.

Case No. 21-20998-L
Chapter 13

ORDER ON TRUSTEE'S MOTION TO MODIFY PLAN
TO INCREASE PERCENT PAID TO UNSECURED CREDITORS

BEFORE THE COURT is the *Motion to Modify Plan to Increase Percent Paid to Unsecured Creditors* filed by Sylvia Ford Brown, Trustee in Bankruptcy, on November 7, 2025 [ECF No. 65]. The motion arises out of the Debtor's inheritance of her mother's home more than 180 days after the filing of her chapter 13 petition. On January 21, 2026, the Court entered an interim order directing the Trustee to make an interim disbursement to the debtor of a portion of the funds deemed to be a surplus while retaining an amount that would result in payment of 100% of the claims of nonpriority unsecured creditors when added to the payments made by the Debtor pursuant to her confirmed plan. The Trustee and the Debtor filed briefs on March 31, 2026. Through administrative oversight, the Court is only now issuing its final order on the Trustee's motion. The Debtor has completed the payments called for under her confirmed plan. No creditor has joined the Trustee's motion for modification.

JURISDICTION, AUTHORITY, AND VENUE

Jurisdiction over a contested matter arising in a bankruptcy case lies with the district court. 28 U.S.C. § 1334(b). Pursuant to authority granted to the district courts at 28 U.S.C. § 157(a), the district court for the Western District of Tennessee has referred to the bankruptcy judges of this district all cases arising under title 11 and all proceedings arising under title 11 or arising in or related to a case under title 11. *In re Jurisdiction and Proceedings Under the Bankruptcy Amendments Act of 1984*, Misc. No. 81-30 (W.D. Tenn. July 10, 1984). The Trustee's motion arises in a bankruptcy case and is brought pursuant to section 1329(a) of the Bankruptcy Code. Matters concerning the administration of the estate and determination of property of the estate are core proceedings. *See* 11 U.S.C § 541(a) and 28 U.S.C. § 157(b)(2)(A). The bankruptcy court has authority to enter a final order determining whether to amend a confirmed Chapter 13 plan subject only to appellate review. *See* 28 U.S.C. § 157(b)(1). Venue of this contested matter is proper to the Western District of Tennessee because it arises in a bankruptcy case pending in this district. *See* 28 U.S.C. § 1409(a).

UNDISPUTED FACTS

The parties submit their dispute to the Court on the following undisputed facts.

1. Sandra Leigh Thomas (the "Debtor") filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code on March 26, 2021 [ECF No. 1].
2. She was a below median debtor with current monthly income of $2,256.89 and an applicable commitment period of 36 months [ECF No. 5].

3. She proposed a 60-month plan to pay two secured claims totaling $14,447.32, nonpriority unsecured claims of approximately $9,822.49, automobile insurance, the case filing fee, an attorney fee of $3,800, and the Trustee's fee. The Debtor proposed to pay $240 every two weeks and proposed that the percentage to be paid to nonpriority unsecured creditors be determined by the Trustee after the claims bar date [ECF No. 2].
4. The plan was confirmed without objection by order entered June 15, 2021 [ECF No. 22].
5. By order entered February 11, 2022, the percentage to be paid to nonpriority unsecured creditors was set at 10%. The plan payments were increased to $249 every two weeks to accommodate this percentage and a small change in the monthly amount to be paid to one of the secured creditors [ECF Nos. 32-34].
6. According to the Debtor, her mother died on March 12, 2025, leaving the Debtor and her sisters as heirs to real property located in Cordova, Tennessee [ECF Nos. 47 and 73].
7. Counsel for the Debtor promptly filed a motion to sell the real property on May 30, 2025, which was granted by an agreed order providing for the satisfaction of all costs of sale and liens from the proceeds of sale and for payment of the portion of the balance belonging to the Debtor to be paid to the Trustee pending further orders of the Bankruptcy Court [ECF Nos. 47, 55, and 60].
8. The Trustee received $46,546.94 from the sale of the real property.
9. The Trustee then filed the pending motion to modify the plan to increase the percentage to be paid to nonpriority unsecured creditors [ECF No. 65].
10. At the scheduled hearing, the Debtor through counsel explained that she had incurred significant medical expenses since the filing of her petition. This testimony resulted in the Court's entry of the interim order providing for retention by the Trustee of only so much of

the sale proceeds as would be needed to pay the nonpriority unsecured creditors 100% of their allowed claims. [ECF No. 70].

11. The total amount of unsecured claims allowed in the case was $9,822.50. The Trustee says that creditors holding these claims have received 10% of the amount of their claims as provided in the confirmed plan. [*Trustee's Brief in Support of Motion to Modify Plan to Increase Percent Paid to Unsecured Creditors*, ECF No. 72, ¶ 3].

12. The Debtor is 65 years old and in ill health. She has completed the payments required by her confirmed plan, a plan that extended 24 months beyond her applicable commitment period.

ISSUE PRESENTED

The issue presented is under what circumstances a chapter 13 debtor who receives an inheritance more than 180 days after the filing of her petition may be compelled to modify her plan to pay the value of the inheritance to her nonpriority unsecured creditors.

DISCUSSION

According to the majority view, property inherited by a Chapter 13 debtor during the pendency of her case is property of the bankruptcy estate. *See In re Moore*, 602 B.R. 40, 47 (Bankr. E.D. Tenn. 2019) which provides a comprehensive review of the authorities and adopts the majority position. Section 1306 of the Bankruptcy Code provides:

> Property of the estate includes, in addition to the property specified in section 541 of this title (1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 11, or 12 of this title, whichever occurs first; and (2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 11, or 12 of this title, whichever occurs first.

11 U.S.C. § 1306(a)(1). This definition expands the reach of section 541(a)(5), which provides a 180-day temporal limit to property that may augment the bankruptcy estate, such as the inheritance received by the Debtor. The majority view harmonizes sections 1306(a)(1) and 541(a)(5) and recognizes that in exchange for the benefits of being permitted to enter into a Chapter 13 plan, the debtor must accept the possibility that the plan may be modified if his ability to pay increases during the life of his plan. *See, e.g., Carroll v. Logan*, 735 F.3d 147, 151 (4th Cir. 2013) ("The repayment plan remains subject to modification for reasons including a debtor's decreased ability to pay according to plan, as well as the debtor's increased ability to pay.")

Finding that property is property of the bankruptcy estate is only the beginning of the inquiry, however. The Trustee seeks to modify the confirmed plan pursuant to section 1329(a) of the Bankruptcy Code, which permits the confirmed plan to be modified "at any time … before completion of payments under such plan." Although the Debtor has now completed the payments required by her plan, the Trustee's motion was timely filed before the completion of payments. *Germeraad v. Powers*, 826 F.3d 962 (Bankr. 7th Cir. 2016). The question of whether some portion of the Debtor's inheritance should be made subject to the claims of the Debtor's creditors was reserved by the interim order entered January 21, 2026. Modification of a confirmed chapter 13 plan under section 1329 is discretionary. *In re Hill*, 386 B.R. 670, 674 (Bankr. S.D. Ohio 2008). "The only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *Id*. at 675, quoting, *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996). In the modification context, the bankruptcy court may properly consider changed circumstances in the exercise of its discretion. *Ledford v. Brown (In re Brown)*, 219 B.R. 191, 195 (B.A.P. 6th Cir. 1998).

Section 1329(a)(1) permits a confirmed plan to be modified "to increase or reduce the amount of payments to be made to a particular class provided for by the plan." Section 1329(b)(1) specifies that sections 1322(a), 1322(b), and 1323(c) and the requirements of section 1325(a) (but not section 1325(b)) apply to any modification. In other words, the Court need not conduct another analysis of the Debtor's projected disposable income and applicable commitment period when considering a proposed modification (see discussion at *In re Moore*, 602 B.R. at 49-50), but must consider, for example, whether the proposed modification has been proposed (or opposed) in good faith (section 1325(a)(3)); passes the "best interest of creditors" or "chapter 7 liquidation test" (section 1325(a)(4)); and is feasible (section 1325(a)(6)).

Subsection 1325(a)(3) requires that a plan be "proposed in good faith and not by any means forbidden by law." There is some confusion about the application of this test when it is the trustee who proposes a modification that is opposed by the debtor. It seems logical that rather than test the good faith of the trustee, the Court should test the good faith of the debtor in opposing the modification.

The Debtor has demonstrated her good faith in a number of ways. She has completed the payments called for in her confirmed plan. She made the Trustee aware of her inheritance promptly after she became aware of it. She is not simply desirous of a windfall but has shown that her expenses have increased over the life of her plan as the result of a heart attack suffered shortly after her mother's death, which resulted in reduction in her work hours and significant post-petition medical expenses. The Trustee has not questioned any of these changed circumstances that demonstrate that the Debtor is not acting in bad faith in opposing the proposed modification but out of a genuine need for the inherited funds.

Subsection 1325(a)(4), the "best interest of creditors test" or "liquidation test," requires that "the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on that date." Although the Bankruptcy Code does not specify the "effective date" of a Chapter 13 plan, the Supreme Court has said that the effective date of a Chapter 13 plan is the date that the plan is confirmed and becomes binding. *Hamilton v. Lanning*, 560 U.S. 505, 518, 130 S.Ct. 2464, 2474 (2010). Section 1329 makes no provision for a new effective date. The confirmation of the Debtor's plan with no objection means that the Trustee believed that the confirmed plan satisfied the best interest of creditors test. Although section 1306(a) brings the inheritance into the bankruptcy estate, it does not change the analysis of what would be required to be paid by the Debtor in the event of a hypothetical liquidation on the effective date.

Relying upon the decision of the bankruptcy judge in *In re Sizemore*, 2013 WL 6328260, at *3 (Bankr. E.D. Ky 2013), the Trustee argues that the fact that the Debtor's inherited property is property of her bankruptcy estate and not subject to any exemption means that it should be available to her creditors. With respect, this Court believes the analysis should not be limited to only one factor but should consider a totality of the Debtor's facts and circumstances. *Brown* at 195, *Hill* at 675, *Moore* at 51, citing, *In re Martin*, 2013 WL 619566 (Bankr. N.D. Ohio 2013).

Section 1325(a)(6) requires an analysis of whether "the debtor will be able to make all payments under the plan and to comply with the plan." At a glance, one might say that this test can be satisfied in this case because the Debtor has made all payments required by her confirmed plan and the Trustee is holding funds sufficient to pay her nonpriority unsecured creditors in full. As has been noted, however, the Debtor has established a genuine need for these funds as the result of significant health concerns that arose very late in her plan. Although the proposed modification is feasible in an absolute sense, it does not take into account the needs of Debtor.

CONCLUSION

Although it is clear that property of the chapter 13 bankruptcy estate includes property inherited by a debtor beyond 180 days after the filing of her petition, in determining whether to modify the debtor's confirmed plan to compel the debtor to pay the inherited funds to her nonpriority unsecured creditors, the Court must consider a totality of the facts and circumstances concerning the debtor at the time of the proposed modification. In this case, the Debtor has demonstrated her good faith in opposing the proposed modification by making all payments required by her confirmed plan and showing that a significant change in her health has reduced her ability to support herself.

Accordingly, the Trustee's motion is DENIED.

cc: Debtor
Attorney for Debtor
Chapter 13 Trustee
Attorney for Chapter 13 Trustee
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