



**Dated: February 05, 2025**  
**The following is SO ORDERED:**

  
Jimmy L. Croom  
UNITED STATES BANKRUPTCY JUDGE

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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

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In re

Phyllis A. Staten,  
Debtor.

Case No. 24-11397  
Chapter 13

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**ORDER DENYING DEBTOR'S MOTION TO IMPOSE STAY UNDER SECTION 362(C)(4)  
AS TO ALL CREDITORS (ECF NO. 36)**

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The debtor in this case, Phyllis A. Staten ("Debtor"), filed the instant case on October 22, 2024. This is the Debtor's second pending bankruptcy case within the last twelve months. She previously filed chapter 13 case number 24-10991 on August 6, 2024 (Case No. 24-10991). The Court dismissed that case on August 26, 2024, for failure to file all required documents. (Case No. 24-10991, ECF No. 12).

As with her previous case, the Debtor filed her current case *pro se*. Initially, she failed to file all necessary paperwork and the Court dismissed the case on November 14, 2024. On November 26, 2024, the Debtor filed a motion to set aside the dismissal. Attorney C. Jerome Teel filed a notice of

appearance on Debtor's behalf on December 30, 2024. The Court granted the Debtor's motion to set aside the dismissal on January 9, 2025, and Debtor's attorney filed the Motion to Impose Stay Under Section 362(c)(4) as to All Creditors ("§ 362(c)(3) Motion") that same day. The Court conducted a hearing on the § 362(c)(3) Motion on February 13, 2025.

As pertains to this matter, § 362(c)(3) of the Bankruptcy Code provides:

(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)(A)-(B) (emphasis added). The vast majority of courts that have interpreted § 362(c)(3)(B) have held

[s]ection 362(c)(3)(A) is self-executing and serves to terminate the stay "on the 30th day after the filing of the later case". Under Section 362(c)(3)(B), if a party in interest desires the continuation of the stay beyond that period, then a motion to extend automatic stay *must both be filed and granted* "after notice and hearing completed *before the expiration of the 30-day period*".

*In re Tubman*, 364 B.R. 574, 580 (Bankr. D. Md. 2007) (emphasis added); *see also, In re Parker*, No. 23-22806, 2023 WL 11854816 (Bankr. W.D. Tenn. Aug. 10, 2023).

"The bankruptcy court has no discretion to grant a motion to continue the automatic stay where it has lapsed under this provision before the movant filed, and the court completed the hearing on, the motion." *In re Flynn*, 582 B.R. 25, 29 (B.A.P. 1st Cir. 2018). "Once the stay expires by operation of Section 362(c)(3)(A), the stay cannot be re-imposed under Section 362(c)(3)(B) as if it had not been terminated." *In re Tubman*, 364 B.R. at 581; *In re Williams*, 346 B.R. 361, 370 (Bankr. E.D. Pa. 2006) (holding that "once a portion of the bankruptcy stay established by section 362(a) has expired by virtue

of section 362(c)(3), that portion cannot be ‘resurrected’ as if it had never terminated.”); *In re Berry*, 340 B.R. 636 (Bankr. M.D. Ala. 2006).

In the case at bar, the Debtor filed her bankruptcy petition on October 22, 2024. She did not file the § 362(c)(3) Motion until January 9, 2025—some 79 days later. The automatic stay in this case terminated on November 21, 2024, and the Court lost its authority to reinstate the stay at that time. Accordingly, the Debtor’s motion must be denied.

It is **THEREFORE ORDERED** that Debtor’s Motion to Impose Stay Under Section 362(c)(4) as to All Creditors (ECF No. 36) is **DENIED**.

cc: Debtor  
Attorney for Debtor  
Chapter 13 Trustee  
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