

The document below is hereby signed.

Signed: November 20, 2009.



A handwritten signature in black ink, which appears to read "S. Martin Teel, Jr.", is written over a horizontal line.

S. Martin Teel, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	Case No. 09-00844
)	(Chapter 7)
MIRIAM J. JENKINS,)	
)	Not for Publication in
Debtor.)	West's Bankruptcy Reporter

MEMORANDUM DECISION AND ORDER DENYING MOTION TO VACATE DISMISSAL

On October 26, 2009, I issued an order dismissing the debtor's case for failure to comply with § 109(h)'s prepetition credit counseling requirement. On October 31, 2009, the debtor filed a motion to vacate the October 26th dismissal order. In the motion, the debtor argued that I should vacate my dismissal order because the debtor filed the case in good faith, was under threat of suits for garnishment by unsecured creditors, had substantially completed online course prior to filing, and was the sole provider for her family and could not secure housing without relief from this court.

Section 109(h) does not grant the court discretion to exempt the debtor from the requirements of § 109(h) based on a good-faith mistake in thinking that credit counseling had already been

completed. This is so even though the debtor will suffer the expense of a new case when her budget is tight. As to the fear of garnishments, a good faith mistake would be a basis for extending the automatic stay in a new case under § 362(c)(3). Any motion under that provision should be sent to creditors with notice under LBR 9013-1 of an opportunity to oppose the motion, and notice of a hearing date prior to the 30th day of the case (and any date available for lift stay motions may be used for any such motion). Finally, as to the need for relief in bankruptcy to secure new housing, nothing in my prior dismissal order prevents the debtor from refiling her case immediately and seeking relief under the Bankruptcy Code. Accordingly, it is

ORDERED that the debtor's motion to vacate the order of dismissal (Dkt. No. 21) is DENIED.

[Signed and dated above.]

Copies to: Debtor; Debtor's Attorney; Chapter 7 Trustee; U.S. Trustee.