

for services performed by debtor on or before the date she filed her bankruptcy petition that were being held pursuant to the writ of garnishment.

On October 3, 1986, the employer responded to the Bankruptcy Court that the \$764.12 which was withheld had been forwarded to the court on June 20, 1986.¹ Thereafter, debtor did nothing to prosecute this matter further in the Bankruptcy Court.

On December 17, 1986, debtor was granted a discharge in bankruptcy, the Court approved the trustee's report of no assets and the abandonment of all property of the estate, and the bankruptcy case was closed.

Debtor's Motion to Reopen her case to recover the \$764.12 was filed on June 22, 1988, over one and one-half years after her case was closed.

Section 350(b) of the Bankruptcy Code, 11 U.S.C. §350(b), provides that:

(b) A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.

Bankruptcy Rule 5010 states that a case may be reopened on motion of the debtor or other party in interest pursuant to 11 U.S.C. §350(b). Discretion to reopen a case rests with the Bankruptcy Court. E.g., In re Frontier Enterprises, Inc., 70 B.R. 356, 359 (Bankr. C.D. Ill. 1987). See also, In re Common, 69 B.R. 458, 459 (Bankr. N.D. Ill.

¹The Court presumes that employer forwarded the funds to the state court where the garnishment action had been filed because the Bankruptcy Court's records reveal that the funds were not deposited with the Bankruptcy Court.

1987); In re Smith, 68 B.R. 897, 899 (Bankr. N.D. Ill. 1987).

Conversely, the Court has broad discretion to refuse to reopen a case. E.g., 2 Collier on Bankruptcy ¶350.03 at 350-9 (15th ed. 1988). Among the reasons for a refusal to reopen are laches, e.g., Virgin Islands Bureau of Internal Revenue v. St. Croix Hotel Corp., 60 B.R. 412, 414-15 (D.V.I. 1986); 2 Collier on Bankruptcy, supra, at 350-10 & n.12 (15th ed. 1988 & Supp. 1987), the de minimis nature of the claim, e.g., 2 Collier on Bankruptcy, supra, at 350-10 & n.13; In re Ampel, 203 F. Supp. 815, 818 (S.D. N.Y. 1962), and the failure of further administration to bring additional assets into the estate. E.g., Lavanagh v. Kayes, 193 F.2d 5, 6 (6th Cir. 1951).

In the instant case, the debtor has waited well over one year to try to prosecute anew a claim of which she had full knowledge during the pendency of her Chapter 7 bankruptcy case. Clearly, if the debtor was dissatisfied with the results of her earlier prosecution of this matter, she had ample time and opportunity to take further action before her case was closed. The Court finds that debtor has offered no explanation to excuse this failure to act on a timely basis. Additionally, the size of debtor's claim is too small to justify the time, trouble and expense of reopening and readministering the estate. This is particularly true since only debtor and not the estate, stands to benefit from the relief debtor seeks.

Accordingly, IT IS ORDERED that debtor's motion to reopen is DENIED.

/s/ Kenneth J. Meyers
U.S. BANKRUPTCY JUDGE

ENTERED: August 3, 1988