

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN MORO,	)	
	)	
Debtor-Appellant,	)	
	)	
vs.	)	CIVIL NO. 00-4185-JLF
	)	BK. NO. 98-40546
KELLY MORO, et al.,	)	
	)	
Defendant-Appellees.	)	

MEMORANDUM AND ORDER

FOREMAN, District Judge:

Before the Court is an appeal by Debtor John Moro from the judgment of the Bankruptcy Court for the Southern District of Illinois. This appeal is discussed below.

**I. Discussion.**

On May 12, 2000, John Moro, pro se debtor, attempted to file a complaint with the Bankruptcy Court to determine the dischargeability of his child support obligation. That same day, the Clerk of the Bankruptcy Court refused to accept his complaint for filing. Specifically, the Clerk notified Mr. Moro that his bankruptcy case had been closed on June 24, 1998, and that in order to file a complaint on this matter, he would first have to file a motion to reopen his case.

On May 23, 2000, John Moro filed a motion to reopen the bankruptcy case "for the express purpose of discharging debtor's child support." On May 30, 2000, the bankruptcy judge denied the motion stating that:

The Court notes that the debtor's case was closed on June 24, 1998, and that the debtor has taken no action since that time - a period of almost two years - to pursue

his expressed goal of obtaining a determination of dischargeability of child support. The Court concludes that the debtor has had ample opportunity to address the issue he now seeks to raise by reopening his case. Given the debtor's delay, his motion to reopen at this time is not well-taken.

(Doc. 6).

Section § 350 of the Bankruptcy Code provides that: "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." 11 U.S.C. §§ 350(b) (*emphasis added*). The decision of whether to reopen a bankruptcy case is within the bankruptcy judge's sound discretion. *Matter of Bianucci*, 4F.3d 526, 528 (7th Cir. 1993). Absent an abuse of discretion, such a decision will not be disturbed on appeal. *In re McDonald*, 161 B.R. 697, 698 (D.Kan.1993).

John Moro argues that although his bankruptcy case was closed and his debts were discharged in June 1998, he did not learn that his child support debt was not dischargeable until May 1999. He further argues that in June 1999, he filed, *pro se*, a motion for declaratory judgment which was returned to him for incorrect filing. He states that the delay from June 1999 to May 2000 was due to the "Law Library at Big Muddy Correctional Center having no Bankruptcy case law and the Debtor having to rely on outside persons for Bankruptcy Law." (Doc. 3, p.4).

As noted, the decision to reopen a bankruptcy case is within the bankruptcy judge's discretion and will not be disturbed absent an abuse of discretion. Here, this Court finds no abuse of discretion in the bankruptcy court's decision to deny Mr. Moro's motion to reopen. Accordingly, the decision of the Bankruptcy Court is affirmed.

## **II. Summary.**

Based upon the foregoing, the decision of the Bankruptcy Court is **AFFIRMED**. The Clerk of the Court is **DIRECTED** to enter Judgment accordingly.

**IT IS SO ORDERED.**

**DATED:** January 22, 2001

/s/ James L. Foreman  
DISTRICT JUDGE