

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

IN THE MATTER OF:	:	CASE NUMBER
	:	
RICHARD MAPP,	:	06-10353-WHD
	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
Debtor.	:	BANKRUPTCY CODE

ORDER

On March 29, 2006, Wiltshire Credit Corporation (hereinafter the "Movant") filed a Motion for Entry of Order Confirming That No Stay is in Effect. The Movant requests an order confirming that, in accordance with section 362(c)(4) of the Bankruptcy Code, no stay arose in this case. Section 362(c)(4) provides as follows:

[I]f a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the year but were dismissed, other than a case refiled under section 707(b) the stay under [section 362(a)] shall not go into effect upon the filing of the later case.

11 U.S.C. § 362(c)(4)(A)(i). Section 362(c)(4)(A)(ii) further provides that a party in interest can request an order "confirming that no stay is in effect." *Id.* § 362(c)(4)(A)(ii).

The Debtor has filed six prior cases in the Middle District of Georgia.¹ The three most recent cases were designated as Case Numbers 05-31373, 05-30696, and 04-31678. The Debtor filed a Chapter 7 petition on September 7, 2005 (Case Number 05-31373). On November 11, 2005, Case Number 05-31373 was dismissed upon the Debtor's own motion.

¹ The Court notes that the Debtor failed to disclose any of these bankruptcy cases on his petition, despite the fact that they were all filed within the eight years prior to the filing of the instant case.

Accordingly, Case Number 05-31373 constitutes a case pending and dismissed for purposes of section 362(c)(4).

On May 2, 2005, the Debtor filed a Chapter 7 petition (Case Number 05-30696). The court granted the Debtor's discharge by order entered on August 19, 2005. Because this case was not "dismissed," but instead discharged and closed, this case does not count as a case pending and dismissed for purposes of section 362(c)(4).

On October 4, 2004, the Debtor filed a Chapter 13 petition (Case Number 04-31678). This case was dismissed upon the Chapter 13 Trustee's motion on March 3, 2005. However, the Debtor filed the instant case on March 6, 2006. Accordingly, although Case Number 04-31678 was dismissed, it was not pending or dismissed within the year prior to the filing of the instant case.

Because the Debtor does not appear to have had two or more cases dismissed within the year preceding the filing of the instant case, the Court cannot conclude that no stay arose upon the filing of the instant case. Accordingly, the Movant's Motion is **DENIED**.

At Newnan, Georgia, this 25 day of April, 2006.



W. HOMER DRAKE, JR.
UNITED STATES BANKRUPTCY JUDGE