



IT IS ORDERED as set forth below:

Date: March 21, 2013

**Barbara Ellis-Monro
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:

ELIZABETH GAIL WILLIAMS,

Debtor.

CASE NO. 12-73567-BEM

CHAPTER 13

ORDER

This case came before the Court for hearing on March 19, 2013, for consideration of confirmation of Debtor's proposed chapter 13 plan [Doc. No. 16]. The chapter 13 Trustee objected to confirmation, for among other reasons, that the Debtor's proposal to pay a 0% distribution to unsecured creditors was not in compliance with 11 U.S.C. §1325(a)(3). [Doc. No. 14]. At the hearing, the Trustee advised the Court that she did not feel strongly about the good faith objection, but that she was presenting it to the Court because the objection had been filed by the Trustee assigned to this case prior to its transfer to the undersigned.

This is a “chapter 20” case. Debtor filed a chapter 7 case, case no. 11-61051-jem, on April 8, 2011, and received a discharge on August 4, 2011. Debtor scheduled and discharged \$39,877.00 in general unsecured debt in her chapter 7 case. In the instant case, Debtor scheduled a total of \$1,412.00 in unsecured debt and seeks to strip the second mortgage lien on her residence, treat that claim as unsecured and pay \$1,000.00 or 0% to unsecured creditors. Debtor testified that her mortgage payment had increased by approximately \$20.00 since the filing of her prior case, that she had changed jobs and was earning less than she had previously and that she filed this case because her sister was unemployed for a month or two and it made things “a little hard.” However, the debtor had not missed any mortgage payments prior to filing this case. Contrary to her testimony, Debtor’s Schedule I filed in her chapter 7 case and in this case show a small \$127.83 increase in gross salary.

The Court has considered the argument of counsel for the Debtor and the Debtor’s testimony in support of confirmation and finds, that given the facts of this case, where Debtor appears to have filed this case for the sole purpose of stripping a second mortgage lien and paying \$4,200.00 in attorney’s fees, that the case was not filed to enable the Debtor “to develop and perform under a plan for the repayment of his debts over an extended period.” *See In re Lopez*, 2011 Bankr. LEXIS 3331, *13 (Bankr. N.D. Ga. 2011), and is thus not consistent with the purpose or spirit of Chapter 13. Thus, the Court finds that the plan does not comply with the requirements of 11 U.S.C. §1325(a)(3). Accordingly, confirmation is denied and the Trustee’s motion to dismiss is GRANTED.

END OF ORDER

Distribution List

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