

FILED

Samuel L. Kay, Clerk
United States Bankruptcy Court
Augusta, Georgia
By jpayton at 3:46 pm, Feb 10, 2011

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA
Augusta Division

IN RE:)	Chapter 7 Case
)	Number <u>11-10225</u>
ITALA ANA AZZARELLI)	
)	
Debtor)	
_____)	

**ORDER DENYING DEBTOR'S APPLICATION FOR
WAIVER OF CHAPTER 7 FILING FEE**

After consideration, Itala Ana Azzarelli's ("Debtors") Application for a Waiver of Chapter 7 Filing Fee is denied.

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, ("BAPCPA"), the bankruptcy court may waive the chapter 7 filing fee for an individual debtor who meets the following two requirements: (1) the debtor's income is less than 150% of the official poverty line income applicable to the debtor's family size; and (2) the debtor must be unable to pay the filing fee in installments. 28 U.S.C. §1930(f)(1).

In the current case, the Debtor fails to meet both requirements. First, Debtor lists her family size as one and her monthly income as \$1,601.00. One hundred fifty percent of the official poverty line income applicable to a family size of one is \$1,361.25 and therefore the Debtor does not meet the first

requirement. See 2011 HHS Poverty Guidelines at <http://www.aspe.hhs.gov/poverty/11poverty.shtml>. The fact that this income is through disability payments does not alter this analysis. See Judicial Conference of the United States Interim Procedures Regarding the Chapter 7 Fee Waiver Provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, available at <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/JCUSinterimProcedures.aspx> ("The income for comparison to the poverty guideline is the "Total Combined Monthly Income" as reported (or as will be reported) on Line 16 of Schedule I. Noncash governmental assistance (such as food stamps or housing subsidies) is not included."); In re Bradshaw, 349 B.R. 511, 513 (Bankr. E.D. Tenn. 2006) (utilizing the Judicial Conference guidelines to assist the court in its determination); See generally, In re Perez, 363 B.R. 311, 312 (Bankr. S.D. Fla. 2007) (all debtor's income was from disability income). Furthermore, Debtor fails to meet the second prong of the analysis given that she has \$929.00 in a checking and savings account. For these reasons the Debtor's Application For a Waiver of the Chapter 7 Filing Fee is hereby ORDERED DENIED.

It is further ORDERED that Debtor must pay the chapter 7 filing fee in no more than four (4) installments on or before June

3, 2011, that date being 120 days after the date of the filing of the petition under Bankruptcy Rule 1006(b)(2) of the Federal Rules of Bankruptcy Procedure. Debtor's failure to timely pay this filing fee in full may result in the case being dismissed.



SUSAN D. BARRETT
CHIEF UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia

this 9th Day of February 2011.