

**United States Bankruptcy Court  
Northern District of Illinois  
Eastern Division**

**Transmittal Sheet for Opinions for Posting**

**Will this opinion be published?** No

**Bankruptcy Caption:** In Re: Kalid Jama

**Bankruptcy Number:** 19 B 35595

**Adversary Caption:** NA

**Adversary Number:** NA

**Date of Issuance:** July 22, 2021

**Judge:** David D. Cleary

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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	Case No. 19 B 35595
	)	
KALID JAMA,	)	Chapter 13
	)	
Debtor.	)	Judge David D. Cleary

**ORDER DENYING THE MOTION TO REOPEN (EOD 32) and  
MOOTING THE RSC MOTION (EOD 37)**

This matter comes before the court on the motion of Debtor Kalid Jama to reopen this bankruptcy case (the “Motion to Reopen”). The court conducted a hearing on the Motion to Reopen on July 19, 2021.

Jama filed for relief under Chapter 13 on December 18, 2019 (the “2019 Case”). The court dismissed the 2019 Case on January 6, 2020. In the Motion to Reopen, Jama alleged that while the 2019 Case was pending, a creditor filed a forcible entry and detainer action against him in state court. This state court filing violated the automatic stay. Jama also filed a memorandum of law that described the statutory authority and legal precedent for reopening a bankruptcy case.

In his memorandum of law, Jama cited several opinions in which the court considered a motion to reopen. All were no-asset Chapter 7 cases, unlike the Chapter 13 case before the court, and none involved an allegation that a creditor violated the automatic stay. *In re Candelaria*, 121 B.R. 140 (E.D.N.Y. 1990); *In re Mohammed*, 536 B.R. 351 (Bankr. E.D.N.Y. 2015); *In re Hood*, 48 B.R. 386 (Bankr. N.D. Ala. 1984); *In re Stanke*, 41 B.R. 379, 382 (Bankr. W.D. Mo. 1984) (court denied request of Chapter 7 trustee to reopen case to litigate a preferential transfer where reopening “would not benefit the general estate and would prejudice the opposing creditor”).

Nevertheless, the court agrees with Jama that, under 11 U.S.C. § 350, the court may reopen a bankruptcy case for the purpose of allowing a debtor to pursue an action under 11 U.S.C. § 362(k) based on a creditor's violation of the automatic stay. See *In re Ebadi*, 448 B.R. 308, 311 (Bankr. E.D.N.Y. 2011) (“cause existed to reopen this case for the limited purpose of determining whether the automatic stay was violated and, if so, what further relief should be granted”); *In re Tillett*, No. 09-19285-SSM, 2010 WL 1688016, at \*2 (Bankr. E.D. Va. Apr. 26, 2010) (“[A] debtor's desire to prosecute a proceeding to redress a violation of the automatic stay would, if promptly brought after the debtor became aware of the violation, normally constitute a good reason for reopening the case.”).

In this situation, however, it would be improper to reopen the 2019 Case for several reasons. First, Jama is a debtor in another bankruptcy case, 21 B 2713 (the “2021 Case”). Although the 2021 Case has been dismissed, it is still open and Jama's appeal of an order lifting the automatic stay is pending in U.S. District Court.

Seventh Circuit authority is quite clear that “there is general agreement that a debtor may not maintain two or more concurrent actions with respect to the same debts.” *In re Sidebottom*, 430 F.3d 893, 898 (7<sup>th</sup> Cir. 2005). See also *In re Standfield*, 152 B.R. 528, 538 (Bankr. N.D. Ill. 1993) (“Carried to its logical extreme, a debtor could file an infinite series of cases after losing an infinite series of stay relief (or other types of) motions, all prior to any of the cases being closed or dismissed.”).

Second, Jama was never eligible to be a debtor in the 2019 Case. The court dismissed it for reasons stated in open court, including Jama's failure to obtain prepetition credit counseling as required by 11 U.S.C. § 109(h) (“[A]n individual may not be a debtor under this title unless such individual has, during the 180-day period ending on the date of filing of the petition by such

individual, received... an individual or group briefing... that outlined the opportunities for available credit counseling[.]”). See *In re Arkuszewski*, 507 B.R. 242, 245 (Bankr. N.D. Ill. 2014), *appeal denied, judgment aff’d*, 550 B.R. 374 (N.D. Ill. 2015) (“If a person must qualify as a ‘debtor’ to file a case, then someone who has not yet received a credit counseling briefing—and so may not be a debtor—cannot properly file.”). There is no point to reopening a case for which the debtor is not eligible.

Finally, the underlying relief Jama wishes to receive if the 2019 Case were reopened is not available to him. “Although a motion to reopen is generally considered a ‘ministerial act,’ in determining whether to grant the motion, it is appropriate for the Court to review the legal merits of the relief sought upon reopening.” *Mohammed*, 536 B.R. at 355 (denying request to reopen Chapter 7 case to schedule an omitted creditor).

Although Jama’s Motion to Reopen does not state why he brought it, the motion referred to a creditor’s violation of the automatic stay. Then, one business day before the Motion to Reopen was heard, Jama filed a motion titled “Debtor’s motion for a rule to show cause why Ranac, Inc., and its attorneys should not be held in contempt and sanction for violation of automatic stay 362(a), (a)(1)” (the “RSC Motion”). The court concludes that Jama wishes to reopen the 2019 Case to prosecute the RSC Motion against Ranac.<sup>1</sup>

The problem is that Jama already sought nearly identical relief against Ranac in a third bankruptcy case, 20 B 249 (the “2020 Case”), and the court denied the requested relief. In the 2020 Case, Jama filed “Debtor’s motion to hold Ranac, Inc. in contempt for violation of the

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<sup>1</sup> Jama also argued in court that he wished to reopen the 2019 Case so he can amend his schedules. Although this may be a basis for reopening in some circumstances, see *In re Williams*, No. 12-82275, 2018 WL 6287968, at \*4 (Bankr. C.D. Ill. Nov. 30, 2018), Jama provided no information regarding what creditors or assets are missing from his schedules, and no argument as to why amended schedules would be necessary in a case for which he is not eligible to be a debtor. Nor did he explain why he wishes to amend the schedules in the 2019 Case when he has already filed two subsequent bankruptcy cases.

automatic stay, by filing the forcible entry and detainer action after the debtor's chapter 13 bankruptcy was filed" (the "Contempt Motion"). The court denied the Contempt Motion, acknowledging that Ranac violated the automatic stay in the 2019 Case but determining that the violation was not willful. There was no showing that Ranac "acted with knowledge of the bankruptcy case when it filed the eviction action.... The requirement that Ranac acted willfully when it violated the automatic stay has not been satisfied." 20 B 249, EOD 112, p. 5 (July 28, 2020).

"Claim preclusion under federal law has three ingredients: a final decision in the first suit; a dispute arising from the same transaction (identified by its operative facts); and the same litigants (directly or through privity of interest)." *U.S. ex rel. Lusby v. Rolls-Royce Corp.*, 570 F.3d 849, 851 (7th Cir. 2009) (citations and quotation marks omitted). This court decided last year that Jama does not have a claim against Ranac for willful violation of the automatic stay in the 2019 Case. Jama did not ask the court to reconsider that decision, nor did he file an appeal, so the order denying the Contempt Motion is final. Both the RSC Motion and the Contempt Motion seek relief based on the same set of operative facts – Ranac's filing of a forcible detainer action during the 2019 Case. Finally, the same litigants – Jama, Ranac and its attorneys – are involved. Claim preclusion applies, and so reopening to allow Jama to prosecute the RSC Motion against Ranac would be futile.

At the hearing on July 19, the court stated that the RSC Motion would be continued to August 2, 2021, pending resolution of the Motion to Reopen. Since the Motion to Reopen is being denied today, the RSC Motion is moot and the August 2, 2021, hearing will be stricken.

For the reasons stated above, **IT IS HEREBY ORDERED THAT:**

1. The Motion to Reopen is **DENIED**;
2. The RSC Motion is **MOOT**; and
3. The status date of August 2, 2021, on the RSC Motion is **STRICKEN**.

ENTERED:

Date: July 22, 2021

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DAVID D. CLEARY  
United States Bankruptcy Judge