

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 07-47442

MARY JULIUS-TURNER,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING, AS UNNECESSARY, DEBTOR'S MOTION TO  
EXTEND THE AUTOMATIC STAY**

This case is before the Court on "Debtor's Motion To Extend Stay Beyond 30 Days Pursuant to 11 USC. §362[(c)](3)(B)," filed on April 23, 2007 (Docket # 14). The Court must deny the motion because it is unnecessary. 11 U.S.C. § 362(c)(3) does not apply in this case, and thus the automatic stay will not terminate under that section.

Section 362(c)(3)(A) provides:

**(3)** if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) —

**(A)** the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

11 U.S.C. § 362(c)(3)(A). This provision does not apply to this case because Debtor did not have any case "pending" within the 1-year period before filing this case **that was dismissed**.

Debtor filed a voluntary petition for relief under Chapter 13 on April 16, 2007, initiating this case. This is Debtor's fifth bankruptcy case. Debtor's bankruptcy cases are as follows: Case No. 01-62626 (Chapter 13) filed November 21, 2001 and dismissed on March 15, 2002 before

confirmation of a Chapter 13 plan; Case No. 02-48326 (Chapter 13) filed on April 8, 2002 and dismissed on September 2, 2003 due to Debtor's failure to make payments under her confirmed Chapter 13 Plan; Case No. 03-56327 (Chapter 13) filed on June 10, 2003 and dismissed on October 2, 2003 before confirmation of a plan; Case No. 03-74074 (Chapter 13) filed on December 10, 2003 and still pending;<sup>1</sup> and this case (Case No. 07-47442).

For this reason, Debtor's motion is not necessary. The stay will not terminate under § 362(c)(3)(A).

Accordingly,

IT IS ORDERED that "Debtor's Motion To Extend Stay Beyond 30 Days Pursuant to 11 USC. §362[(c)](3)(B)" (Docket # 14), is DENIED as unnecessary.

**Signed on April 27, 2007**

/s/ Thomas J. Tucker

**Thomas J. Tucker**  
**United States Bankruptcy Judge**

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<sup>1</sup> An entry on the Court's docket indicates that on August 18, 2004, in Case No. 03-74074, the Court held a hearing on a motion to dismiss the case with a 180 day bar by Saxon Mortgage (Docket # 13), and granted the motion. However, the Court did not grant the motion, and no order dismissing the case was ever filed. Rather, on August 19, 2004, a "Stipulated Order Modifying the Plan" (Docket # 22) was filed, which indicated that a resolution of Saxon Mortgage's motion to dismiss the case with a 180 day bar had been reached, and recited the terms of the resolution. Case No. 03-74074 remains pending.