UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re Brian L. DeCerb

In re DeCerb · No. 18-22681-GLT · Decided May 21, 2026

SUMMARY

The United States Bankruptcy Court for the Western District of Pennsylvania denied Brian L. DeCerb’s motion to reconsider dismissal of his Chapter 13 case. The court held that the debtor failed to establish excusable neglect or extraordinary circumstances under Federal Rule of Civil Procedure 60(b), despite making a curative payment after dismissal. The court emphasized that the debtor had already received an extended grace period to cure the plan arrearage after the expiration of the plan term.

CASE DETAILS

COURT	United States Bankruptcy Court for the Western District of Pennsylvania
WRITING FOR THE COURT	Gregory L. Taddonio
JURISDICTION	United States Bankruptcy Court for the Western District of Pennsylvania
DECIDED	May 21, 2026
DOCKET	18-22681-GLT
DISPOSITION	denied
PROCEDURAL POSTURE	The Chapter 13 Trustee moved to dismiss the debtor's case for failure to cure a substantial plan-payment arrearage after expiration of the debtor's extended plan term. After dismissal, the debtor moved under Federal Rule of Civil Procedure 60(b)(1) and (b)(6) to vacate the dismissal based on excusable neglect, extraordinary circumstances, and his subsequent tender of the arrearage.
STANDARD OF REVIEW	Relief under Rule 60(b) is extraordinary and granted sparingly; the movant bears the burden of establishing one of the rule's enumerated grounds. Excusable neglect is evaluated equitably under the circumstances, and Rule 60(b)(6) requires extraordinary circumstances producing extreme and unexpected hardship.
PRECEDENTIAL VALUE	unpublished

PARTIES	Brian L. DeCerb, Debtor v. Chapter 13 Trustee

TOPICS

chapter 13 · motion for reconsideration · bankruptcy · remedies · civil procedure

PRACTICE AREAS

Bankruptcy · Civil procedure · Equitable remedies

QUESTIONS PRESENTED

1. Whether the debtor established excusable neglect under Federal Rule of Civil Procedure 60(b)(1) sufficient to vacate dismissal of his Chapter 13 case after expiration of the plan term and after receiving an extended opportunity to cure.
2. Whether the debtor demonstrated extraordinary circumstances and extreme and unexpected hardship warranting relief under Federal Rule of Civil Procedure 60(b)(6).
3. Whether the debtor's eventual ability to pay the plan arrearage constituted an independent basis to reinstate the dismissed Chapter 13 case.

HOLDINGS

1. The debtor failed to establish excusable neglect because the relevant hardships and delays were already known when the court granted nearly seven months to cure, and the debtor's eventual payment did not justify reopening the dismissed case.
2. The debtor failed to demonstrate the extraordinary circumstances and extreme and unexpected hardship required for relief under Rule 60(b)(6).
3. A debtor's eventual ability to cure a Chapter 13 payment default is not itself a basis to vacate a prior dismissal.

KEY QUOTATIONS

> *"The eventual ability to cure a payment default in chapter 13 is not itself a basis to vacate a prior dismissal."*

> *"The lesson here is that a debtor cannot reasonably expect to stack a grace period under Klaas with an additional period of excusable neglect following dismissal."*

> *"But chapter 13 is not open-ended, so there is inevitably a moment when a default crystalizes and becomes irreversible."*

FACTUAL BACKGROUND

The debtor's eighty-four-month Chapter 13 plan expired while he owed approximately $33,248 in arrearages resulting from missed lump-sum payments. Over nearly seven months, the court continued hearings to allow him to obtain retirement funds and cure the default, while wage attachments reduced the arrearage to approximately $11,612. Because no curative payment had been made and the supporting documentation for the anticipated retirement-fund distribution was insufficient, the court dismissed the case. About one month later, the debtor reported that he had finally remitted a curative payment and sought to vacate the dismissal.

PROCEDURAL HISTORY

The debtor's Chapter 13 plan had been extended to eighty-four months under 11 U.S.C. § 1329(d). The trustee moved to dismiss after the debtor remained in arrears, and the court continued the matter several times to allow an opportunity to cure. When the debtor still had not made the curative payment, the court dismissed the case. Approximately one month later, after the debtor tendered payment, he moved for reconsideration; the court denied relief.

DISPOSITION

denied

CASES CITED

- Grigg v. Chaney (In re Grigg), No. ADV 12-7008-JAD, 2013 WL 5310207, at *1-2 (Bankr. W.D. Pa. Sept. 20, 2013)
- Deeters v. Wells Fargo Bank, N.A. (In re Deeters), No. 15-70570-JAD, 2017 WL 4990449, at *2 (Bankr. W.D. Pa. Oct. 27, 2017)
- In re Matters Involving Prof'l Conduct of Mazzei, No. MISC. 14-00205-GLT, 2014 WL 4385746, at *3 (Bankr. W.D. Pa. Sept. 4, 2014)
- Pioneer Investment Services v. Brunswick Assoc., 507 U.S. 380, 388, 395 (1993)
- Chemetron Corp. v. Jones, 72 F.3d 341, 349 (3d Cir. 1995)
- Orie v. Dist. Attorney Allegheny Cty., 942 F.3d 151, 154-155 (3d Cir. 2019)
- Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007)
- Sawka v. Healtheast, Inc., 989 F.2d 138, 140 (3d Cir. 1993)
- Norris v. Brooks, 794 F.3d 401, 404 (3d Cir. 2015)
- Budget Blinds, Inc. v. White, 536 F.3d 244, 255 (3d Cir. 2008)
- In re Klaas, 858 F.3d 820, 828, 830, 832 (3d Cir. 2017)
- Butko v. Ciccozzi (In re Butko), 624 B.R. 338, 367 (Bankr. W.D. Pa. 2021)
- Above the Belt, Inc. v. Mel Bohannan Roofing, Inc., 99 F.R.D. 99, 101 (E.D. Va. 1983)
- In re Strickler, No. 23-20004-GLT, 2024 WL 1145669, at *2 (Bankr. W.D. Pa. Mar. 15, 2024)
- In re Grigg, 2013 WL 5945793, at *2
- Geberegeorgis v. Gammarino (In re Geberegeorgis), 310 B.R. 61 (B.A.P. 6th Cir. 2004)
- In re Smallwood, 592 B.R. 178 (Bankr. S.D. Ohio 2017)
- Aubain v. LaSalle Nat'l Bank (In re Aubain), 296 B.R. 624, 630-634 (Bankr. E.D.N.Y. 2003)