UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION

In re Irving Russell

In re Russell · No. 25-56553-JWC · Decided June 12, 2026

SUMMARY

The United States Bankruptcy Court for the Northern District of Georgia denies Debtor Irving Russell's motion to convert his Chapter 7 case to Chapter 13. Applying Marrama v. Citizens Bank of Massachusetts, the court concludes that Russell's repeated failures to attend creditors' meetings, nondisclosure of a bank account, noncompliance with examination and document requests, and other conduct demonstrate atypical, extraordinary, and egregious bad faith. The court reserves ruling on the trustee's objection to Russell's claimed exemptions for a separate opinion.

CASE DETAILS

COURT	United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division
WRITING FOR THE COURT	Jeffery W. Cavender
JURISDICTION	United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division
DECIDED	June 12, 2026
DOCKET	25-56553-JWC
DISPOSITION	other
PROCEDURAL POSTURE	The chapter 7 debtor moved under 11 U.S.C. § 706(a) to convert his case to chapter 13. The chapter 7 trustee opposed conversion, and counsel for the United States Trustee joined the opposition. After three hearings, the bankruptcy court denied the motion.
STANDARD OF REVIEW	The court applied the fact-specific totality-of-the-circumstances inquiry for determining bad faith and whether conduct is sufficiently atypical, extraordinary, and egregious to deny conversion under Marrama.
PRECEDENTIAL VALUE	Unpublished bankruptcy court memorandum opinion; precedential status unknown

PARTIES	Irving Russell, Debtor v. Mike Bargar, Chapter 7 Trustee, United States Trustee

TOPICS

chapter 7 | chapter 13 | bankruptcy | bankruptcy exemptions | bankruptcy discovery

PRACTICE AREAS

Bankruptcy

QUESTIONS PRESENTED

1. Whether a chapter 7 debtor has an absolute right to convert the case to chapter 13 under 11 U.S.C. § 706(a).
2. Whether the debtor's conduct constituted bad faith sufficient under Marrama and 11 U.S.C. § 1307(c) to deny conversion from chapter 7 to chapter 13.
3. Whether the totality of the circumstances, including concealment or nondisclosure of assets, repeated failures to appear, frivolous filings, failure to comply with a Rule 2004 examination, and lack of cooperation with the trustee, established an extraordinary and egregious case warranting denial of conversion.

HOLDINGS

1. A chapter 7 debtor does not have an absolute right to convert to chapter 13 when cause exists under 11 U.S.C. § 1307(c) to dismiss a chapter 13 case or reconvert it to chapter 7. Bad faith constitutes such cause under Marrama.
2. Russell's conduct was atypical, extraordinary, and egregious and demonstrated bad faith sufficient to deny his motion to convert from chapter 7 to chapter 13.

KEY QUOTATIONS

> *"It suffices to emphasize that the debtor's conduct must, in fact, be atypical. Limiting dismissal or denial of conversion to extraordinary cases is particularly appropriate in light of the fact that lack of good faith in proposing a Chapter 13 plan is an express statutory ground for denying plan confirmation."* (549 U.S. at 375 n.11)

> *"The Court finds this failure particularly troubling given that the Court ordered him to appear at the 2004 exam and specifically instructed him at the December 18 hearing that it expected him to appear at the 2004 exam."*

FACTUAL BACKGROUND

Russell had filed five bankruptcy cases, including four within less than two years, and his three most recent cases had been dismissed for failure to fund a plan, failure to comply with a court directive, or failure to file required documents. In this case, he initially failed to disclose a Navy Federal Credit Union account containing approximately $30,000, missed five meetings of creditors, failed to appear at hearings on his own motions, and filed documents asserting that bankruptcy law and the court's jurisdiction did not apply to him. He also failed to appear for a court-ordered Rule 2004 examination and refused to provide sufficient bank records for the trustee to evaluate his claimed exemptions. Russell sought conversion principally to preserve his residence, which had substantial equity but was subject to a large mortgage arrearage.

PROCEDURAL HISTORY

Russell filed this fifth bankruptcy case under chapter 7 on June 12, 2025, after three recent cases had been dismissed. During the case, he failed to attend multiple meetings of creditors and hearings, failed initially to disclose a bank account containing approximately $30,000, filed numerous frivolous or duplicative documents, failed to appear for a court-ordered examination under Federal Rule of Bankruptcy Procedure 2004, and did not adequately cooperate with the trustee's investigation of his claimed exemptions. He moved to convert to chapter 13 to save his home from foreclosure, but the trustee and United States Trustee opposed conversion on bad-faith grounds.

DISPOSITION

other

CASES CITED

- Marrama v. Citizens Bank of Massachusetts, 549 U.S. 365, 127 S. Ct. 1105 (2007)
- Bobadilla v. Aurora Loan Servs., 478 F. App'x 625, 627 (11th Cir. 2012)
- United States v. Rey, 811 F.2d 1453, 1457 n.5 (11th Cir. 1987)
- In re Kitchens, 702 F.2d 885, 888 (11th Cir. 1983)
- Brown v. Gore (In re Brown), 742 F.3d 1309, 1317 (11th Cir. 2014)
- Piazza v. Nueterra Healthcare Physical Therapy, LLC (In re Piazza), 719 F.3d 1253, 1271 (11th Cir. 2013)
- Silver v. PHH Mortgage Corp. (In re Silver), BAP No. CC-22-1101-LFT, 2022 WL 17848965, at *4 (B.A.P. 9th Cir. Dec. 19, 2022)
- Khan v. Barton (In re Khan), 846 F.3d 1058, 1065 (9th Cir. 2017)
- Woodbury v. Vara (In re Woodbury), No. 20-1612, 2021 WL 2660488, at *2 (6th Cir. Mar. 18, 2021)
- In re Johnson, 634 B.R. 806, 817-18 (Bankr. D. Colo. 2021)
- Culp v. Stanziale (In re Culp), 545 B.R. 827, 841 (D. Del. 2016)
- In re Landry, Case No. 18-55697-LRC, 2019 WL 2386109, at *2 (Bankr. N.D. Ga. June 4, 2019)