

UNITED STATES BANKRUPTCY APPELLATE PANEL OF THE TENTH
CIRCUIT

Lorenzo Luciano Lopez v. Lon A. Jenkins and Auntie Tut Trust

Lopez · No. BAP Appeal No. 25-2; BAP No. UT-25-2; Bankr. No. 24-26705 · Decided February 3, 2026

SUMMARY

The United States Bankruptcy Appellate Panel of the Tenth Circuit affirmed the dismissal of Lorenzo Luciano Lopez’s Chapter 13 case and related filing restrictions. The court held that a debtor’s right to dismissal under 11 U.S.C. § 1307(b), although generally absolute, is not necessarily immediate or unconditional, and that the bankruptcy court could conduct a hearing and rule on a pending automatic-stay-relief motion before entering the dismissal order. The court also concluded that the bankruptcy court adequately supported its findings of bad faith under Federal Rule of Bankruptcy Procedure 7052.

CASE DETAILS

COURT	United States Bankruptcy Appellate Panel of the Tenth Circuit
WRITING FOR THE COURT	HALL, Bankruptcy Judge; ROMERO, Chief Judge; LOYD, Bankruptcy Judge
JURISDICTION	United States Bankruptcy Appellate Panel of the Tenth Circuit
DECIDED	February 3, 2026
DOCKET	BAP Appeal No. 25-2; BAP No. UT-25-2; Bankr. No. 24-26705
DISPOSITION	affirmed
PROCEDURAL POSTURE	Chapter 13 debtor appealed the bankruptcy court's order delaying entry of a voluntary dismissal, ruling on a pending motion for relief from the automatic stay, and imposing a 180-day bankruptcy-filing restriction under 11 U.S.C. § 109(g)(2).
STANDARD OF REVIEW	De novo review applies to interpretation and application of the Bankruptcy Code, including § 1307(b).
PRECEDENTIAL VALUE	Unpublished and nonprecedential; may be cited for persuasive value, subject to stated preclusion doctrines.
PARTIES	Lorenzo Luciano Lopez v. Lon A. Jenkins, Chapter 13 Trustee, Auntie Tut Trust

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a chapter 13 debtor's motion for voluntary dismissal under 11 U.S.C. § 1307(b) requires immediate and unconditional dismissal.
2. Whether the bankruptcy court may conduct a hearing and delay entry of a dismissal order to decide a pending motion for relief from the automatic stay.
3. Whether the bankruptcy court erred by imposing a 180-day restriction on refiling under 11 U.S.C. § 109(g)(2).
4. Whether the bankruptcy court's findings and explanation satisfied Federal Rule of Bankruptcy Procedure 7052.

HOLDINGS

1. Although § 1307(b) gives an eligible chapter 13 debtor an absolute right to dismissal, the dismissal need not be entered immediately or unconditionally.
2. The bankruptcy court did not err by conducting a hearing or delaying entry of the dismissal order to rule on the pending motion for relief from the automatic stay.
3. The 180-day filing restriction was required by 11 U.S.C. § 109(g)(2) because Lopez requested and obtained voluntary dismissal after a request for relief from the automatic stay had been filed.
4. The bankruptcy court's findings and explanation were sufficient under Rule 7052.

KEY QUOTATIONS

“the dismissal is not required to be immediate or unconditional.” (9)

“The Bankruptcy Court did not err in conducting a hearing on the Voluntary Dismissal Motion as nothing in the Code or binding authority prohibits a court from setting and conducting a hearing.” (11)

FACTUAL BACKGROUND

A trust deed secured a promissory note on Utah property originally owned by Johnathan Darger. The property passed through related entities and was conveyed to Lopez immediately before Lopez filed a chapter 13 case, following two earlier chapter 13 filings by Darger that had been dismissed for failure to file required documentation. The filing occurred immediately before a third scheduled trustee's sale, and the bankruptcy court found the filing was part of a bad-faith scheme to delay the sale through successive property transfers and bankruptcy filings.

PROCEDURAL HISTORY

Lopez filed a chapter 13 petition immediately before a scheduled trustee's sale of real property. After Auntie Tut Trust moved for relief from the automatic stay, Lopez filed a motion for voluntary dismissal under 11 U.S.C. § 1307(b) and argued that the bankruptcy court lost jurisdiction to address the stay motion. The bankruptcy court held a hearing, granted stay relief, later dismissed the case, and barred Lopez from filing another bankruptcy petition for 180 days under § 109(g)(2). Lopez appealed the dismissal order; the BAP had previously dismissed his separate appeal from the stay-relief order as moot.

DISPOSITION

affirmed

CASES CITED

- *Hutchinson v. Hahn*, 402 F. App'x 391, 394-95 (10th Cir. 2010)
- *St. Louis Baptist Temple, Inc. v. Fed. Deposit Ins. Corp.*, 605 F.2d 1169, 1172 (10th Cir. 1979)
- *In re Shattuck*, 411 B.R. 378, 382 (10th Cir. BAP 2009)
- *Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 679 (10th Cir. 1998)
- *In re Taylor*, 737 F.3d 670, 674-75 (10th Cir. 2013)
- *In re Robinson*, No. UT-02-043, 2003 WL 1442465, at *4 (10th Cir. BAP Mar. 21, 2003)
- *In re Barbieri*, 199 F.3d 616, 619-22 (2d Cir. 1999)
- *In re Smith*, 999 F.3d 452 (6th Cir. 2021)
- *In re Nichols*, 10 F.4th 956 (9th Cir. 2021)
- *In re Rebeor*, 89 B.R. 314, 322 (Bankr. N.D.N.Y. 1988)
- *In re Campbell*, No. 07-457, 2007 WL 4553596, at *6 (Bankr. N.D. W. Va. Dec. 18, 2007)
- *In re Davis*, 352 B.R. 758, 765 (Bankr. D.S.C. 2006)
- *United States v. Freeman*, 631 F. App'x 784, 786 (11th Cir. 2015)
- *Ross v. AmeriChoice Fed. Credit Union*, 530 B.R. 277, 289 (E.D. Pa. 2015), rev'd on other grounds, 858 F.3d 779, 785 (3d Cir. 2017)
- *In re Kelly*, 671 B.R. 432, 450 (D. Md. 2025)
- *In re Kemp*, No. 21-40365, 2022 WL 50368, at *5 (Bankr. D. Kan. Jan. 5, 2022)
- *In re Merritt*, 39 B.R. 462, 464 (Bankr. E.D. Pa. 1984)
- *In re Duran*, 630 B.R. 797, 811 (9th Cir. BAP 2021)
- *In re Minogue*, 632 B.R. 287, 293-94 (Bankr. D.S.C. 2021)
- *In re Hamlin*, No. 09-05272-8-SWH, 2010 WL 749809, at *4 (Bankr. E.D.N.C. Mar. 1, 2010)
- *In re Dilley*, 125 B.R. 189, 195 (Bankr. N.D. Ohio 1991)
- *In re Greenberg*, 200 B.R. 763, 767 (Bankr. S.D.N.Y. 1996)
- *In re Harper-Elder*, 184 B.R. 403, 407 (Bankr. D.D.C. 1995)
- *In re Jacobsen*, 609 F.3d 647, 660 (5th Cir. 2010)

