UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF CONNECTICUT, NEW HAVEN DIVISION

In re Andrew Consiglio

In re Consiglio · No. 25-30966 (AMN) · Decided April 29, 2026

SUMMARY

The United States Bankruptcy Court for the District of Connecticut denies the movant's request for in rem relief under 11 U.S.C. § 362(d)(4) because the record does not establish that the property is part of the debtor's bankruptcy estate. The court finds substantial evidence of bad faith and serial bankruptcy filings, grants the motion in part under § 362(d)(1), and orders the debtor to show cause why the case should not be dismissed with prejudice and a three-year refiling injunction imposed.

CASE DETAILS

COURT	United States Bankruptcy Court for the District of Connecticut, New Haven Division
JURISDICTION	United States Bankruptcy Court for the District of Connecticut, New Haven Division
DECIDED	April 29, 2026
DOCKET	25-30966 (AMN)
DISPOSITION	other
PROCEDURAL POSTURE	The creditor moved for in rem relief from the automatic stay under 11 U.S.C. § 362(d)(4). After the debtor filed a notice of voluntary dismissal, the court retained jurisdiction to resolve the motion and determine whether dismissal should be with prejudice.
PRECEDENTIAL VALUE	Unknown
PARTIES	NewRez LLC d/b/a Shellpoint Mortgage Servicing as servicer for The Bank of New York Mellon f.k.a. The Bank of New York, as Trustee for the Certificate Holders of CWALT, Inc., Alternative Loan Trust 2007-19, Mortgage Pass-Through Certificates, Series 2007-19 v. Andrew Consiglio

TOPICS

automatic stay · chapter 13 · bankruptcy fraud · bankruptcy · civil procedure

PRACTICE AREAS

Bankruptcy · Real estate · Civil procedure · Remedies

QUESTIONS PRESENTED

1. Whether the creditor was entitled to in rem relief under 11 U.S.C. § 362(d)(4) based on a scheme to hinder, delay, or defraud creditors through multiple bankruptcy filings.
2. Whether in rem relief under § 362(d)(4) is available when the affected property is not established to be property of the debtor's bankruptcy estate.
3. Whether the creditor could obtain equivalent in rem relief under 11 U.S.C. § 105(a) alone.
4. Whether the debtor's failures to file required documents and a Chapter 13 plan, pay filing-fee installments, make plan payments, and attend meetings of creditors constituted cause for dismissal under 11 U.S.C. § 1307(c).
5. Whether the case should be dismissed with prejudice and subject to a three-year injunction against refiling because of the debtor's alleged bad-faith serial filings.

HOLDINGS

1. In rem relief under § 362(d)(4) is available only when the affected property is property of the debtor's bankruptcy estate; because the record did not establish that Consiglio owned the property or that it was estate property, the requested § 362(d)(4) relief was denied.
2. The court could not grant the requested in rem relief under § 105(a) alone.
3. The debtor's failures to file required documents and a Chapter 13 plan, pay required filing-fee installments, attend meetings of creditors, and make plan payments supported dismissal for cause under § 1307(c), including unreasonable delay prejudicial to creditors and failure to satisfy Chapter 13 obligations.
4. The record supported consideration of dismissal with prejudice and a three-year injunction against the debtor's filing of another bankruptcy petition, but the court deferred the final determination and ordered the debtor to show cause.

KEY QUOTATIONS

> *"However, because the Movant did not allege or establish the Property is property of the Debtor's bankruptcy estate, relief pursuant to Bankruptcy Code § 362(d)(4) will be denied and, instead, a deadline will be set for the Debtor to explain why the Court should not dismiss this case with prejudice to refiling a bankruptcy petition for a period of three years."*

> *"Accordingly, where the record does not clearly establish the Property is part of this Debtor's bankruptcy estate, in rem relief is not available."*

FACTUAL BACKGROUND

The Bank of New York commenced a foreclosure action in 2008 concerning real property at 81 High Clear Drive, Stamford, Connecticut. Andrew Consiglio and co-obligor Heather J. Lindsay filed at least fifteen bankruptcy petitions affecting the foreclosure action, most of which were dismissed for failures such as not filing required documents or plans, not making payments, not attending creditors' meetings, or otherwise abusing the bankruptcy process. In the present Chapter 13 case, the debtor failed to file schedules, a plan, required financial documents, and the filing-fee installments, and failed to attend scheduled meetings of creditors. The record did not establish that Consiglio owned the property; the debtor asserted that Lindsay was the true owner.

PROCEDURAL HISTORY

The creditor sought in rem relief concerning property involved in a longstanding foreclosure action and affected by numerous bankruptcy filings by the debtor and a co-obligor. The debtor subsequently filed a notice of voluntary dismissal. The court denied relief under § 362(d)(4) because the record did not establish that the property was property of the debtor's bankruptcy estate, granted relief in part under § 362(d)(1), and ordered the debtor to show cause why the case should not be dismissed with prejudice and subject to a three-year refiling injunction.

DISPOSITION

other

CASES CITED

- Teamsters Nat'l Freight Indus. Negotiating Comm. et al. v. Howard's Express, Inc. (In re Howard's Express, Inc.), 151 F. App'x 46, 48 (2d Cir. 2005)
- Mei Guo v. Despins (In re Kwok), No. 3:24-CV-724 (KAD), 2025 U.S. Dist. LEXIS 10092, 2025 WL 252855, at *22 (D. Conn. Jan. 21, 2025)
- Porzio v. JPMorgan Chase Bank, NA (In re Porzio), 622 B.R. 134, 137 (D. Conn. 2020)
- In re Feldman, 309 B.R. 422, 428 (Bankr. E.D.N.Y. 2004)
- Barbieri v. RAJ Acquisition Corp. (In re Barbieri), 199 F.3d 616, 619 (2d Cir. 1999)
- In re: Bolling, 609 B.R. 454, 455 (Bankr. D. Conn. 2019)
- In re Burgos, 476 B.R. 107, 111 (Bankr. S.D.N.Y. 2012)
- Tenore v. Frost (In re Tenore), No. 24-CV-9729 (CS), 2025 U.S. Dist. LEXIS 116958, 2025 WL 1693503, at *9 (S.D.N.Y. June 16, 2025)
- Wenegieme v. Macco, 580 B.R. 17, 21-22 (E.D.N.Y. 2018)
- In re Casse, 198 F.3d 327, 338, 341-42 (2d Cir. 1999)
- In re Zahoruiko, 666 B.R. 856, 865-66 (Bankr. D. Conn. 2024)
- In re Ducena, 676 B.R. 77, 85 (Bankr. S.D.N.Y. 2026)
- In re Van Damme, 2025 Bankr. LEXIS 660, 2025 WL 825282 (Bankr. D. Nev. Mar. 13, 2025)
- Kulick v. Leisure Vill. Ass'n (In re Kulick), 2022 Bankr. LEXIS 3622, 2022 WL 17848939 (B.A.P. 9th Cir. Dec. 16, 2022)
- In re Parson, 632 B.R. 613, 631 (Bankr. N.D. Tex. 2021)

- In re Jordan, 598 B.R. 396, 408 (Bankr. E.D. La. 2019)
- In re Craighead, 377 B.R. 648, 657 (Bankr. N.D. Cal. 2007)
- In re Chapter 13, 219 B.R. 946, 950 (B.A.P. 2d Cir. Apr. 8, 1998)
- In re Moon, 730 F. Supp. 3d 1020, 1022 (N.D. Cal. 2024)
- In re O'Farrill, 569 B.R. 586, 592 (Bankr. S.D.N.Y. 2017)
- In re Valid Value Props., LLC, 2017 Bankr. LEXIS 27 (Bankr. S.D.N.Y. Jan. 5, 2017)
- Witkowski v. Boyajian, 523 B.R. 300, 307 (B.A.P. 1st Cir. 2014)
- In re Oliver, No. BAP CC-11-1482, 2012 Bankr. LEXIS 5003, 2012 WL 5232201, at n.7 (B.A.P. 9th Cir. Oct. 23, 2012)
- In re: Wang Shuang, 2024 Bankr. LEXIS 2687, 2024 WL 4668429 (Bankr. S.D.N.Y. Nov. 4, 2024)
- In re Brown, Docket No. 19-65022-JWC, 2020 Bankr. LEXIS 399, 2020 WL 763252, at *3 (Bankr. N.D. Ga. Feb. 14, 2020)
- Law v. Siegel, 571 U.S. 415, 421 (2014)
- In re Yeboah, Nos. 25-21024 (JJT), 11, 2025 Bankr. LEXIS 2946, 2025 WL 4090551, at *3-4 (Bankr. D. Conn. Nov. 12, 2025)
