

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

STACEY ELIZABETH PYNN

BK 24-11369 CLB

Debtor

DECISION & ORDER

Stacey Elizabeth Pynn
7217 Woodmore Court
Lockport, New York 14094
Pro Se Debtor

Patrick M. Balkin, Esq.
Jackson & Balkin
365 Market Street
Lockport, New York 14094
Attorney for Matthew P. Pynn

Office of Julie Philippi, Chapter 13 Trustee
Janet MacDonald, Esq., of counsel
170 Franklin Street, Suite 600
Buffalo, New York 14202
Staff Attorney to Chapter 13 Trustee

Carl L. Bucki, Chief U.S.B.J., W.D.N.Y.

The issue before the Court is whether a Chapter 13 trustee must honor a property execution that was served upon her prior to the return of money to the debtor in a dismissed case.

Stacey Elizabeth Pynn filed a petition for relief under Chapter 13 of the Bankruptcy Code on December 2, 2024. During the pendency of the case, Ms. Pynn paid \$10,077.97 to the trustee. No plan was ever confirmed, however, and on the trustee's motion, the Court dismissed the case by order dated September 9, 2025.

Matthew Pynn is the debtor's former husband and a creditor by reason of a judgment that he had obtained against her in 2022. On November 24, 2025, after the order of dismissal but prior to a release of funds in the trustee's possession, Mr. Pynn caused the trustee to be served with a property execution directing her to remit the sum

of \$10,077.97 to the sheriff. On notice to both the debtor and her former husband, the trustee now moves for direction regarding the proper distribution of this money.

Ms. Pynn argues that under 11 U.S.C. § 1326(a)(2), the trustee is obliged to return to the debtor the balance of funds in her possession. Agreeing with the debtor, the trustee asserts that the demand for release of money must fail because the creditor did not seek prior leave of this Court to serve a property execution. *See Barton v. Barbour*, 104 U.S. 126 (1881). Matthew Pynn responds that after dismissal of the bankruptcy case, the trustee became subject to the dictates of state law, including statutes allowing recovery of a judgment by means of an execution against assets held by a third party. *See* N.Y. C.P.L.R. § 5232(a).

Discussion

Bankruptcy Courts are divided on the question of whether a creditor can levy on funds still held by a Chapter 13 trustee after dismissal of a case. *See* the various cases reviewed in *In re Locascio*, 481 B.R. 285, 287 (Bankr. S.D.N.Y. 2012). In our view, however, the Supremacy Clause of the United States Constitution compels a return of such money to the debtor.

Section 1326 of the Bankruptcy Code speaks to payments that a debtor in Chapter 13 must make to her trustee. Subdivision (a)(1) of this section directs that a debtor “shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount – (A) proposed by the plan to the trustee.” In partial accord with this direction, Stacey Elizabeth Pynn paid to her trustee the sum of \$10,077.97. The trustee’s distribution of this money is then addressed in section 1326(a)(2):

“A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to

paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b)."

In the present instance, Matthew Pynn asserts no claim under section 1326(a)(3), such as might be due for payment of adequate protection to a secured creditor. Thus, section 1326(a)(2) mandates that after deductions for administrative claims arising under 11 U.S.C. § 503(b), the trustee is to return the balance of funds in her possession to the debtor.

Any direction under state law that would compel the trustee to make payment to a third party is void under the Supremacy Clause of the United States Constitution. Section 2 of Article VI of the Constitution recites as follows:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Inasmuch as Congress enacted the Bankruptcy Code pursuant to Article I, Section 8, Clause 4 of the Constitution, section 1326 of that statute is here supreme and usurps application of New York law that would otherwise allow a levy on funds held by the Chapter 13 trustee.

With regard to funds in the trustee's possession, the Supremacy Clause does not apply to other federal statutes, such as Title 26 of the United States Code and its provisions regarding a levy by the Internal Revenue Service. *See Beam v. I.R.S. (In re Beam)*, 192 F.3d 941 (9th Cir. 1999). That, however, is not the issue that we must address. For the reasons stated herein, the trustee is directed to disburse the funds in her possession to Stacey Elizabeth Pynn, less only any unpaid claim that might be allowed under 11 U.S.C. § 503(b).

So ordered.

Dated: January 29, 2026
Buffalo, New York

/s/ Carl L. Bucki
Hon. Carl L. Bucki, Chief U.S.B.J., W.D.N.Y.