

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT

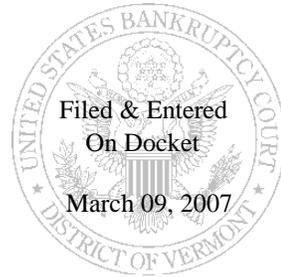
---

In re:

**JUDY ANN BELVAL,**  
**Debtor.**

---

**Chapter 7 Case**  
**# 05-12056**



**ORDER**

**VACATING ORDER GRANTING DEBTOR'S MOTION TO CONVERT CHAPTER 7 CASE TO CHAPTER 13**  
**AND SETTING A HEARING ON THE MOTION TO CONVERT**

On March 5, 2007, the Debtor filed a motion to convert her chapter 7 case to a chapter 13 case pursuant to 11 U.S.C. § 706(a) (doc. # 12). On March 8, 2007, the Court entered an Order converting the case (doc. # 13).

This is the first motion to convert a case from chapter 7 to chapter 13, in this District, since the Supreme Court issued Marrama v. Citizens Bank of Massachusetts, \_\_\_ U.S. \_\_\_, 127 S.Ct. 1105 (2007) on February 21, 2007. In Marrama, the Supreme Court held that a debtor who sought bankruptcy relief under chapter 7 does not have an absolute right to convert to chapter 13, and in fact has forfeited the right to obtain chapter 13 relief if the debtor had acted in bad faith prior to filing bankruptcy, during the chapter 7 case, or in seeking conversion to chapter 13.

The Debtor herein originally filed for bankruptcy relief under chapter 7 and she received a chapter 7 discharge on February 7, 2006 (doc. # 6). Subsequently, this Court entered a Memorandum of Decision declaring that a \$30,000 state court judgment a family member creditor had been granted against the Debtor was excepted from discharge under 11 U.S.C. § 523(a)(6) because the debt underlying that judgment arose from a "willful and malicious injury" that the Debtor had perpetrated. (See doc. # 51 in A.P. # 06-1014.) In a chapter 7 case, a debt arising from a willful and malicious injury pursuant to § 523(a)(6) is excepted from discharge. By contrast, however, such a debt is not excepted from discharge in chapter 13, and hence the Debtor would not be prohibited from discharging this debt if she were to proceed in chapter 13. See § 1328(a)(2). In this Court's view, any conversion of a chapter 7 case to chapter 13, on the heels of a determination that a particular debt is not dischargeable in chapter 7, raises the question of whether the debtor is seeking conversion in bad faith. Under Marrama, if the Debtor acted in bad faith she has no right to relief under chapter 13.

This Court's practice had been to enter a conversion order without a hearing. However, in light of the Supreme Court's holding in Marrama, THE COURT FINDS it appropriate to vacate the conversion Order entered today (doc. # 13) and to set a hearing on the Debtor's motion to convert her chapter 7 case to one under chapter 13.

Accordingly, IT IS HEREBY ORDERED that the conversion order entered on March 8, 2007 (doc. # 13) is VACATED; and

IT IS FURTHER ORDERED that a hearing will be held on **March 27, 2007 at 10:00 a.m. at the Federal Courthouse in Burlington, Vermont** on the Debtor's motion to convert, to determine whether the Debtor has the right to convert her chapter 7 case to chapter 13 and, in particular, whether the Debtor acted in bad faith by seeking relief under chapter 13, rendering her ineligible for relief under chapter 13.

**SO ORDERED.**

March 8, 2007  
Rutland, Vermont



---

Colleen A. Brown  
United States Bankruptcy Judge