



**SO ORDERED.**

**SIGNED this 31st day of January, 2007.**

  
LARRY E. KELLY  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**IN RE:**

**DERRICK ANTHONY WALKER and  
ELIZABETH WALKER,  
Debtors.**

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**CASE NO. 99-62401-LEK  
CHAPTER 7**

**ORDER DENYING MOVANT/DEBTOR'S MOTION TO REOPEN CASE AND  
OR IN THE ALTERNATIVE INTERLOCUTORY APPEAL TO THE UNITED STATES  
DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS WACO DIV. AND  
ORDER DENYING DEBTOR DERRICK WALKER'S APPLICATION TO PROCEED  
WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT**

Before the Court is the Movant/Debtor's Motion to Reopen Case and or in the Alternative Interlocutory Appeal to the United States District Court for the Western District of Texas Waco Div. filed January 29, 2007 (Doc. #96). Also, Debtor Derrick Walker filed an Application to Proceed Without Prepayment of Fees and Affidavit on January 29, 2007 (Doc. # 97). Both pleadings are filed pro se.

In September 2003, one of the above-named Debtors, Elizabeth Walker, appearing pro se, filed a similar motion to reopen the chapter 7 case and an application to proceed in forma pauperis. If the case was reopened, she planned to assert claims against a creditor, Key Bank and

Trust, for its failure to pay Debtors the sanctions money awarded to them because the creditor had, instead, offset the sanctions award against debt the Debtors owed this creditor. The Court entered an order denying the motion to reopen the chapter 7 case. See Order filed October 20, 2003 (#91). In that order, the Court set forth a detailed history of the Debtors' bankruptcy filing and pleading history, including the Debtors' claims against this creditor, the court rulings on those claims made in the summer of 2000, Debtors' appeal of those rulings to the District Court, and the District Court's dismissal of the appeal as untimely. In 2000, the bankruptcy court's rulings had found that Key Bank and Trust had violated the automatic stay and that the creditor would be sanctioned for \$1709.80, which amount represented the unsecured portion of its claim against the Debtors.<sup>1</sup> This \$1709 amount in favor of the Debtors could be offset by Key Bank and Trust against what the Debtors owed Key Bank and Trust, in other words, the monetary award could be applied to the credit card debt the Debtors owed Key Bank and Trust, in effect, wiping out the debt they owed on the credit card. No money was ordered to be actually "paid" to the Debtors. They had no claim that Key Bank and Trust must release money to them.

Debtor Elizabeth Walker then filed a motion to reconsider, or in the alternative, leave to file an interlocutory appeal to the United States District Court. By order entered December 18, 2003 (Doc. #94), after referring to its reasons stated in the October 20, 2003 order for denying the reopening of the case, the Court denied the motion to reconsider. It found no meritorious grounds existed for reconsideration because the Debtor was, again, merely asserting as grounds for reconsideration the same claims she had previously and unsuccessfully alleged.

Now, four years later, Debtors are seeking to reopen the case so that they can cause Key Bank and Trust to release the money awarded to them as sanctions [presumably the \$1709]. It is unclear whether one or both Debtors are movants on this motion to reopen. Debtor Derrick Walker seeks leave to proceed without payment of the required \$260 filing fee for reopening the case, asserting he is indigent.

Debtors received their discharge on October 3, 2000. This case was closed on

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<sup>1</sup> Debtors had a secured credit card account with Key Bank and Trust which required them to maintain a bank account at Key Bank and Trust to collateralize the credit card account. At the time they filed bankruptcy, they owed Key Bank and Trust on the credit card debt approximately \$4600 and their securing bank account amount was \$2900, leaving Key Bank and Trust with an unsecured claim of about \$1700 on the credit card debt.

January 24, 2001. Since 2000, the Debtors have sought the same relief against Key Bank and Trust that they now request in 2007: the payment to them of the sanctions award. Several court orders have been entered denying the relief. The relief will again be denied. It is therefore

ORDERED that Movant/Debtor's Motion to Reopen Case and or in the Alternative Interlocutory Appeal to the United States District Court for the Western District of Texas Waco Div. filed January 29, 2007 (Doc. #96) is denied; it is further

ORDERED THAT Debtor Derrick Walker'S Application to Proceed Without Prepayment of Fees and Affidavit on January 29, 2007 (Doc. # 97) is denied.

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