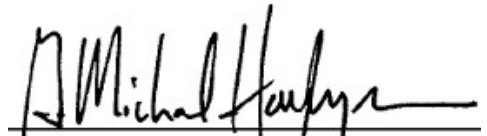




THE FOLLOWING ORDER  
IS APPROVED AND ENTERED  
AS THE ORDER OF THIS COURT:

DATED: September 4, 2018

  
G. Michael Halfenger  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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In re:

Justin Daniel Paul Camacho,  
  
Debtor.

Case No. 18-27653-gmh  
  
Chapter 7

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**ORDER**

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Congress has commanded that no individual can be a debtor in bankruptcy unless that individual receives credit counseling during the 180 days **before** the bankruptcy petition is filed. 11 U.S.C. §109(h)(1). An individual can obtain a temporary waiver of the credit-counseling requirement, but only if the debtor demonstrates that there are “exigent circumstances that merit a waiver”, and only if the individual requested credit-counseling services but was unable to obtain those services within seven days of when he made the request. §103(h)(3)(A).

On August 8, 2018, the debtor, Justin Camacho, filed a chapter 7 petition. Camacho filed a request for a temporary waiver of the credit-counseling requirement. On August 15, 2018, the court denied his request because (1) Camacho failed to show exigent circumstances warranting

a temporary waiver; (2) he failed to explain what, if any, efforts he made to complete credit counseling before filing this case; and, (3) he failed to demonstrate that there were circumstances that prevented him from completing credit counseling before filing this case. The court dismissed Camacho's case for failing timely to complete credit counseling, as §109(h) requires in order to be an individual title 11 debtor.

On August 22, 2018, Camacho's counsel filed a letter explaining that Camacho filed his case as an "emergency", because Camacho faced an impending supplemental examination, garnishment, and other unspecified "negative consequences of collections." CM-ECF Doc. No. 14. Along with the letter, counsel filed a certificate showing that Camacho completed the course concerning personal financial management, which is the *post*-bankruptcy course debtors are required to complete before receiving a discharge. See 11 U.S.C. §727(a)(11). Camacho has yet to show that he completed the *pre*-bankruptcy credit-counseling requirement.

In the letter, Camacho's counsel asks the court to reinstate this case "based on the attached motion." CM-ECF Doc. No. 14. No motion was attached, but the court construes the letter as a motion to vacate the dismissal order under Federal Rule of Bankruptcy Procedure 9024.

If the dismissal was proper, Rule 9024 does not provide an avenue to vacate the order. Camacho argues that he should be excused from taking the credit counseling because he faced what he calls an "emergency" – impending supplemental examination, garnishment, and "negative consequences of collections." Again, however, the statute allows a temporary waiver of the credit-counseling requirement only when the debtor shows "exigent circumstances". 11 U.S.C. §109(h). When considering whether a debtor has shown exigent circumstances, "the

proper focus under §109(h) is not on the circumstances that hastened or precipitated the bankruptcy filing but on whether those circumstance[s] or any other *prevented* the debtor from being able to obtain credit counseling prior to filing for bankruptcy." *In re Afolabi*, 343 B.R. 195, 198 (Bankr. S.D. Ind. 2006) (emphasis in original).

Camacho's motion does not suggest that the "impending" supplemental examination prevented him from obtaining credit counseling, only that it necessitated the bankruptcy filing. Furthermore, Camacho presumably had advance notice of the supplemental examination, but the motion fails to explain why Camacho couldn't complete the credit-counseling requirement before filing his "emergency" bankruptcy case. Nothing in the record, moreover, shows that Camacho has ever completed the credit-counseling requirement under §109(h)(1).

Therefore, **IT IS ORDERED** that the request to reconsider the dismissal order is **denied**.

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