

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

IN RE:	§	
	§	
BOBBY RAY CASEY, JR.,	§	Case No. 06-40104
	§	(Chapter 13)
Debtor.	§	

**ORDER DENYING MOTION TO VACATE**

Bobby Ray Casey (the “Debtor”) initiated a bankruptcy case on February 1, 2006 (the “Petition Date”), by filing a petition for relief under Chapter 13 of the Bankruptcy Code. The Debtor, however, failed to file a Statement of Current Monthly Income and Disposable Income Calculation (Form B22) as required by 11 U.S.C. §§ 521(a)(1)(B)(ii) and 707(b)(2)(C). Thus, pursuant to 11 U.S.C. § 521(i)(1), the Debtor’s bankruptcy case was automatically dismissed on the 46<sup>th</sup> day after the Petition Date. The Court entered an order evidencing the automatic dismissal on March 21, 2006.

This matter is before the Court on the Motion to Vacate Automatic Dismissal of Chapter 13 Case of Individual Debtor Pursuant to 11 U.S.C. §521(i)(1) (the “Motion to Vacate”) filed by the Debtor pursuant to Federal Rules of Civil Procedure 59 and 60(b), as adopted and applied to bankruptcy cases by Federal Rules of Bankruptcy Procedure 9023 and 9024, respectively. In the Motion to Vacate, counsel for the Debtor states that she inadvertently failed to file the required form with the Debtor’s bankruptcy petition. She argues that “[n]othing in the text of 11 U.S.C. § 521(i)(1) precludes reinstatement of Debtor’s bankruptcy case following a properly filed and noticed motion to vacate and reinstate the Debtor’s case.”

As described *supra*, the Debtor's case was not dismissed by any order entered by this Court, but by operation of law. This Court does not have the ability to "vacate" provisions of the Bankruptcy Code. *Cf: In re Sosa*, 336 B.R. 113 (Bankr. W.D.Tex. 2005) (dismissing bankruptcy case based on debtors' failure to comply with credit counseling requirement). Accordingly, it is

**ORDERED** that the Motion to Vacate shall be, and it is hereby, **DENIED**.

Signed on 4/20/2006

Brenda T. Rhoades MD  
HONORABLE BRENDA T. RHOADES,  
UNITED STATES BANKRUPTCY JUDGE