

# In the United States Bankruptcy Court

## for the Northern District of Iowa

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MICHAEL GEORGE VAN LEUVEN and  
ROBERTA LYNNETTE VAN LEUVEN  
Debtors.

Bankruptcy No. 92-3220OXF

Chapter 7

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### ORDER DENYING MOTION TO DISMISS

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The matter before the court is the debtors' motion to dismiss their chapter 7 petition. Hearing on the motion was held January 21, 1993 in Fort Dodge.

Michael and Roberta Van Leuven filed their joint chapter 7 petition on November 30, 1992. Shortly thereafter, on December 4, they filed a dismissal of the case. The "Dismissal" was treated as a motion to dismiss; parties-in-interest have been served with notice, and none has objected.

To dismiss their case, debtors must show cause under 11 U.S.C. 707(a). There must be no prejudice to creditors from the dismissal. The court can consider prejudice to postpetition creditors. In re Reents, No. 87-00362W, slip op. at 4 (Bankr. N.D. of Iowa, Oct. 5, 1987).

Debtors now realize that they filed their pending case within six years of the commencement of a prior chapter 7 in which they received a discharge. Thus, if objection is filed, they would be denied discharge in this case under 11 U.S.C. 727(a)(8). Because of this concern, they seek to dismiss this case so they can refile after the expiration of six years from the filing of the prior case. The prior case was filed on March 16, 1987.

The debtors have not shown cause for dismissing the chapter 7 case. First, debtors' concern may be unwarranted. It may be that none of their creditors will object to their discharge in this case. Second, even if the debtors are denied discharge, they have not shown that the denial of discharge in this case would prevent a discharge in a case filed more than six years after March 16, 1987. More importantly, this court does not believe that miscalculation or misunderstanding regarding the six-year period is cause for dismissing a case if the sole purpose is to refile when the six-year period expires. Accordingly,

IT IS ORDERED that debtors' motion to dismiss is denied.

SO ORDERED ON THIS 16th DAY OF FEBRUARY, 1993.

William L. Edmonds  
Chief Bankruptcy Judge