NOT INTENDED FOR PUBLICATION AND/OR CITATION

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:	)	
	)	
ALICE MIDDLE HAWKINS	)	CASE NO. 12-40651
	)	
	)	
Debtor	)	

DECISION AND ORDER DENYING MOTION TO RECONSIDER

At Fort Wayne, Indiana, on September 27, 2012

This case was dismissed on September 21, 2012 due to the debtor's failure to submit the required filing fee, request a waiver of that requirement, or request to pay the fee in installments when the case was filed. As a result, it did not satisfy the minimum requirements needed to commence a case. See, Fed. R. Bankr. P. Rule 1006; N.D. Ind. L.B.R. B-1002-1(a)(2); 11 U.S.C. § 707(a)(2). See also, 28 U.S.C. § 1930(a). Debtor's counsel has filed a motion to reconsider which, in essence, asks the court to vacate the order of dismissal and to reinstate this case.[1]

The motion indicates that when counsel electronically filed this case, he tried to pay the filing fee but received a message indicating that there were no outstanding fees due and that he continued to receive this message upon subsequent attempts to pay the fee. Despite receiving this message and the various attempts to pay the fee, counsel never called the court to inquire as to why he was receiving this message. If he had, he would have quickly learned that the message was the result of his error when the case was filed. After inputting data concerning his client, counsel would have encountered the following screen:

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[1]The court notes that the motion has not been accompanied by a brief in support thereof as required by the local rules of this court. N.D. Ind. L.B.R. B-9023-1. See also, In re King, 2006 WL 1994679 *1-2 (Bankr. N.D. Ind. 2006).

Despite the very clear instructions to "Leave the receipt field BLANK if you are paying via the internet," counsel entered the number 1 in that field. See, Docket Entry 1, Sept. 20, 2012. When he did that, the option to pay the filing fee via the internet was removed. This is why he received the message that no fees were due – because of counsel's error made when filing the case.

Although debtor's motion states that counsel will pay the filing fee if the motion to reconsider is granted, he has not done so, and even now, the court still does not have the required payment. See, Tolliver v. Northrup Corp., 786 F.2d 316, 319 (7th Cir. 1986)("It would take an extraordinary set of facts – one we cannot now imagine – to make a case of 'abuse of discretion' in failing to restore to the docket a case in which the defaulting party is still in default at the time the [] judge rules on the motion to vacate.").

Finally, the motion does not identify any harm to the debtor as a result of the dismissal. Admittedly, the debtor no longer has a bankruptcy case, but the court did not associate any type of prejudice with the dismissal and so there is no obstacle to a proper refiling. See, 1 U.S.C. § 349(a); N.D. Ind. L.B.R. B-1002-1(c). See also, Rodriguez v. Washington, 1995 WL 593081 (N.D. Ill. 1995) (dismissal without prejudice gives no just cause to complain).

Debtor's motion to reconsider is DENIED.

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court