

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:10-CV-67-H

THERESA M. GERSTLE

APPELLANT

V.

REPUBLIC BANK & TRUST COMPANY

APPELLEE

MEMORANDUM OPINION AND ORDER

This is an appeal from the decisions of United States Bankruptcy Judge David T. Stosberg that the Chapter 13 plan of the Debtor/Appellant, Theresa M. Gerstle, was not feasible, that she failed to comply with court orders and that it should be dismissed. This Court reviews for clear error of fact and *de novo* as to issues of law.

The Bankruptcy Court held an evidentiary hearing on October 27, 2009, and heard considerable testimony. That testimony demonstrated convincingly that the Debtor could not maintain current payments for expenses under her reorganization plan. The evidence also shows that she was not in compliance with other aspects of her plan. Based upon this evidence, the court was correct to conclude that the plan did not meet the feasibility test.

The Debtor acknowledged that she had not or had been unable to comply with numerous court orders. Based upon these findings and admission, the court established a factual basis for dismissal of the petition.

The record also establishes a sound basis for the court's order dated June 23, 2009, setting aside the stay of relief. The Debtor has not presented any reasons why the stay should be reinstated and did not make a timely appeal of that order.

This Court concludes that the Bankruptcy Court's findings as to the facts are not clearly

erroneous and that its legal rulings are correct. Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the Debtor/Appellant's appeal is DENIED and is
DISMISSED WITH PREJUDICE.

This is a final order.

cc: Theresa M. Gerstle, *Pro Se*
Counsel of Record
Bankruptcy Court