

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

IN RE:) CIVIL ACTION NO. 3:07-3980-JFA
AMANDA BOULWARE,) (Bankruptcy Court No. 07-04686-jw)
a/k/a AMANDA MANIGAULT))

ORDER OF DISMISSAL

This proceeding comes before the Court on the motion of the United States, pursuant to 11 U.S.C. § 105(a), for an order dismissing the proceeding.¹ The Court has original jurisdiction of the main bankruptcy case and this proceeding under 28 U.S.C. §§ 1334(a) and 157.

The present proceeding before the Court arises from the submission of proposed findings of fact and conclusions of law by the bankruptcy court, Honorable John E. Waites, in an order entered in the main bankruptcy case on November 27, 2007. The bankruptcy court certified this matter to the Court for *de novo* review as a non-core proceeding under 28 U.S.C. § 157(c)(1) and FED. R. BANKR. P. 9033.

The bankruptcy court concluded that probable cause existed that the actions of Amanda Boulware a/k/a Amanda Manigault (hereinafter “Ms. Boulware”), the debtor, both in filing the aforementioned main bankruptcy case in violation of a May 25, 2007, order barring her from filing another bankruptcy case for a period of five years, as well as in failing to attend a rule to show cause hearing set for November 13, 2007, constituted crimes of criminal contempt under 18 U.S.C. §§ 401-402. The bankruptcy court further concluded that Ms. Boulware’s violation of the May 25,

¹The United States moves to dismiss only the proceeding before the Court, not the main bankruptcy case.

2007, by filing another bankruptcy case constituted indirect criminal contempt.

The bankruptcy court also concluded that the United States Attorney for the District of South Carolina should be directed to investigate this matter and to prosecute Ms. Boulware, if appropriate, for criminal contempt and for any other violation of federal law relating to her intentional disobedience of orders of the bankruptcy court.

Ms. Boulware was indicted on or about January 21, 2009, by a federal grand jury in the District of South Carolina. The indictment consisted of two counts: (1) filing a false declaration under penalty of perjury (in connection with the aforementioned main bankruptcy case) in violation of 18 U.S.C. § 152(3); and (2) knowingly and willingly disobeying an order of a court of the United States (the May 25, 2007, bankruptcy court order) in violation of 18 U.S.C. § 401(3).

Ms. Boulware entered a guilty plea to Count 1 of the indictment on April 14, 2009. Count 2 of the indictment involving criminal contempt was dismissed on the motion of the United States. The Court sentenced Ms. Boulware on November 20, 2009, to fifteen (15) months imprisonment, plus two (2) years probation and assessed her \$100.00. *See United States v. Boulware*, Case No. 3:09-cr-00058-JFA-1 (Nov. 20, 2009).

Following an appeal by Ms. Boulware of her sentence, the Fourth Circuit Court of Appeals affirmed her sentence on May 11, 2010, and issued its mandate on June 2, 2010. Ms. Boulware filed no petition for writ of certiorari within the 90 days allowed; thus, her sentence is final.

The dismissal of Count 2 involving criminal contempt as part of the plea agreement filed in *United States v. Boulware* makes moots a determination of criminal contempt in the present non-core proceeding before the Court, because Ms. Boulware's criminal contempt alleged in both proceedings arises out of the same facts.

The present proceeding no longer serves any useful purpose. The dismissal of this proceeding would best serve the interests of justice and the interests of parties in interest in this case. This proceeding should therefore be, and hereby is dismissed without prejudice.

IT IS SO ORDERED.

September 16, 2010
Columbia, South Carolina

Joseph F. Anderson, Jr.
Joseph F. Anderson, Jr.
United States District Judge