



**The relief described hereinbelow is SO ORDERED.**

**SIGNED this 22nd day of April, 2020.**

  
Robert D. Berger  
United States Bankruptcy Judge

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS**

In re:

**SCOTT GREGORY HATTRUP,**

Debtor.

Case No. 19-21065

Chapter 13

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**ORDER GRANTING MOTION FOR SUMMARY JUDGMENT IN PART AND  
ORDERING DEBTOR TO SHOW CAUSE**

This matter comes before the Court on creditor Julia Deng's motion for summary judgment<sup>1</sup> on her motion for stay relief.<sup>2</sup> The parties' dispute centers

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<sup>1</sup> ECF 36.

<sup>2</sup> ECF 18.

around Mr. Hattrup’s residence at 11925 West 92nd Terrace in Lenexa, Kansas (the “**Residence**”), which Ms. Deng purchased at an IRS auction on October 6, 2016.<sup>3</sup>

On July 25, 2017, Ms. Deng obtained an eviction judgment against Mr. Hattrup in an action before the District Court of Johnson County, Kansas.<sup>4</sup> Mr. Hattrup appealed that judgment on August 2, 2017. To stay his eviction pending appeal, Mr. Hattrup filed an \$18,000 bond (the “**Appeal Bond**”).<sup>5</sup> He also filed a separate federal complaint against Ms. Deng and the IRS in the United States District Court for the District of Kansas.<sup>6</sup>

The Kansas Court of Appeals affirmed the state district court’s eviction judgment on June 15, 2018; the Kansas Supreme Court denied review on April 29, 2019.<sup>7</sup> Accordingly, the Kansas district court entered a writ of restitution on May 14, 2019. Ten days later, before the Sheriff of Johnson County could execute the writ, Mr. Hattrup filed for bankruptcy.<sup>8</sup> Ms. Deng’s pending motions ask this Court to lift the automatic stay under [11 U.S.C. § 362](#) to allow her to obtain possession of the Residence and recovery of the Appeal Bond in the Kansas courts.

On September 27, 2019, this Court lifted the automatic stay as to the parties’ federal litigation.<sup>9</sup> The federal district court, having already dismissed the IRS as a

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<sup>3</sup> See ECF 36-4.

<sup>4</sup> See ECF 36-8.

<sup>5</sup> See ECF 36-10.

<sup>6</sup> See ECF 36-13.

<sup>7</sup> See ECF 36-11.

<sup>8</sup> ECF 1.

<sup>9</sup> ECF 43.

defendant,<sup>10</sup> entered summary judgment in favor of Ms. Deng on January 3, 2020.<sup>11</sup> In light of that judgment, Ms. Deng's motion for summary judgment on her motion for stay relief in this bankruptcy case is hereby **GRANTED IN PART** as to the Residence.

Because Mr. Hattrup has apparently exhausted his state appeals, it does not appear to this Court that the bankruptcy estate has any interest in the Appeal Bond under 11 U.S.C. § 541. However, because the federal district court's judgment does not specifically address it, this Court will reserve judgment on the Appeal Bond at this time. Mr. Hattrup is hereby ordered to **SHOW CAUSE** on or before **May 4, 2020**, why this Court should not find that the Appeal Bond is not property of the estate under § 541 and grant the motion for summary judgment as it relates to stay relief on the Appeal Bond.

IT IS SO ORDERED.

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<sup>10</sup> See ECF 36-14.

<sup>11</sup> See ECF 60-1, 60-2.