

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE: )  
)  
EMILY P. MEADOW, ) Bankruptcy Case No. 00-60190  
)  
Debtor. )  
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)  
EMILY P. MEADOW, )  
)  
Plaintiff, )  
)  
vs. ) Adversary Case No. 00-6055  
)  
U. S. DEPARTMENT OF EDUCATION )  
DIRECT LOAN SERVICING CENTER, )  
)  
Defendant. )

OPINION

This matter having come before the Court on a Complaint to Determine Dischargeability of Debt, filed by the Debtor on September 29, 2000; the Court, having heard sworn testimony of the Debtor and arguments of counsel and being otherwise fully advised in the premises, makes the following findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure.

Findings of Fact

The Court finds that the material facts in this matter are not seriously in dispute and are, in pertinent part, as follows:

1. Debtor filed a petition for relief under Chapter 7 of the Bankruptcy Code, on March 10, 2000. An Order of Discharge was entered on June 20, 2000.
2. Debtor commenced the instant adversary proceeding on September 29, 2000, seeking to discharge student loan debts of \$38,000

to the United States Department of Education. The Government claims that she currently owes \$35,090.27.

3. The Debtor is a 27 year old woman who complained of numerous health problems. Plaintiff testified about the following medical ailments: (a) diabetes; (b) endometriosis; (c) migraine headaches; (d) asthma; (e) allergies; (f) obsessive-compulsive disorder; and (g) depression.

4. The Debtor has a Master's Degree in social work. She works as an addiction counselor and earns \$24,000 yearly. She is married, and her husband earns \$15,000 yearly.

5. By testimony at trial, the Debtor stated that her major monthly expenses are as follows:

Apartment rent	\$ 600
Electric and gas	\$ 150
Car insurance	\$ 30
Utilities	\$ 135
Food	\$ 400
Medical bills	\$1,200
Minor bills	\$ 200

6. The Court found the Debtor to be a credible witness.

#### Conclusions of Law

The issue before the Court is whether the Debtor's student loans should be discharged as undue hardship under 11 U.S.C. § 523(a)(8) of the Bankruptcy Code.

Title 11 U.S.C. § 523(a)(8) states as follows:

(a) A discharge under § 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt . . .

(8) for an educational benefit overpayment or loan made, insured, or guaranteed by a governmental

unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and the debtor's dependents;

The Debtor has the burden of proving by a preponderance of the evidence that the repayment would constitute an undue hardship. The Seventh Circuit Court of Appeals, in In the Matter of Roberson, 999 F.2d 1132 (7th Cir. 1993), adopted the three prong test set forth in Brunner v. New York State Higher Education Services Corp., 831 F.2d 395 (2nd Cir. 1987):

"[U]ndue hardship" requir[es] a three-part showing (1) that the debtor cannot maintain, based on current income and expenses, a "minimal" standard of living for [himself] and [his] dependents if forced to repay the loans; (2) that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans; and (3) that the debtor has made good faith efforts to repay the loans. Roberson, supra, at 1135.

It is clear from the evidence in this case that the Debtor cannot maintain a "minimal" standard of living for herself if forced to repay the entire balance of the loan. Her current medical bills alone consume much of her gross income. Furthermore, she testified that she was unable to afford at this time to obtain all the medical treatment that has been recommended for her. There is no evidence that her condition will substantially change, but there is some hope. There was no evidence that the Debtor did not make an effort to repay the loans. In spite of all her medical problems, she sought and obtained employment and is working.

The Court finds that repayment of the entire balance of the

student loans would impose an undue hardship on the Debtor, and such a pursuit by the Government to collect would not be worthwhile. However, the Court finds that the Debtor could repay \$10,500 of the loans without an undue hardship on her part if she is given time. For the foregoing reasons, the Debtor's Complaint to Determine Dischargeability of Debt is allowed in part and denied in part pursuant to 11 U.S.C. § 523(a)(8).

ENTERED: **March 28, 2001**

/s/ GERALD D. FINES  
United States Bankruptcy Judge