

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

IN RE: )  
)  
AMELIA ROCK )  
Debtor. ) BK NO. 02-33662  
)  
AMELIA ROCK, )  
)  
Plaintiff )  
)  
vs. ) ADV. NO. 04-3117  
)  
UNITED STATES OF AMERICA, )  
DEPARTMENT OF EDUCATION, )  
)  
Defendant )

**OPINION**

This matter having come before the Court for trial on the Plaintiff's complaint to determine the dischargeability of her student loans; Plaintiff, Amelia Rock, having appeared *pro se*, and the Defendant, United States of America, having appeared by Erin Kepplinger and James M. Hipkiss; and the Court, having heard the testimony of Plaintiff and having reviewed the file and otherwise being fully advised in the matter, makes the following findings of fact, conclusions of law, and Order:

1. On October 4, 2002, Amelia Rock filed a voluntary petition for relief pursuant to Chapter 7 of the Bankruptcy Code.

2. At the time of the filing of the petition in bankruptcy, Ms. Rock had outstanding student loans to the United States Department of Education in the approximate amount of \$61,288.51.

3. The loans were taken out in connection with the Debtor's education at Columbia College in Columbia, Missouri, where she obtained a degree in education.

4. The Debtor is currently employed as a nurse at Kenneth Hall Regional Hospital in East St. Louis, Illinois, earning \$22.00 per hour.

5. The Debtor is divorced, and has two daughters, ages 19 and 17.

6. The Debtor has various physical ailments, but is able to work full time.

In order to have a student loan discharged in bankruptcy as creating an undue hardship, the Debtor has a very high burden of proof. The Seventh Circuit Court of Appeals addressed this issue in Matter of Roberson, 999 F.2d 1132 (7th Cir. 1993), when it adopted the test set forth by the Second Circuit in Brunner v. New York State Higher Education Services Corp., 831 F.2d 395 (2nd Cir. 1987). See Roberson, 999 F.2d at 1135. The Brunner test sets forth a very rigid three prong analysis. First, Debtor must show that she cannot maintain, based upon current income and expenses, a minimal standard of living for herself and her dependents if forced to repay the loans. Second, Debtor must show that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period. Finally, Debtor must establish that there has been a good faith effort to repay the loans. Brunner, 831 F.2d at 396. In addition, the Seventh Circuit recently stated that the dischargeability of student loans should be based upon the certainty of hopelessness, not simply a present inability to fulfill financial commitment. Goulet v. Educ. Credit Mgmt. Corp., 284 F.3d 773, 778 (7<sup>th</sup> Cir. 2002).

In the instant case, Debtor has the ability to work, is currently employed, has no extraordinary expenses, and earns an income that is sufficient to maintain at least a minimal standard of living while repaying her student loans. Thus, under the Seventh Circuit's strict three part test, repayment of these loans will not create an undue hardship on the Debtor or her dependents.

Accordingly, IT IS ORDERED that the indebtedness of Amelia Rock to the United States Department of Education is hereby determined to be nondischargeable in bankruptcy under 11 U.S.C. § 532(a)(8).

IT IS FURTHER ORDERED that the Department of Education take no collection activity on this indebtedness for two years from the date of this order.

ENTERED: August 30, 2004

/s/ Larry L. Lessen  
UNITED STATES BANKRUPTCY JUDGE