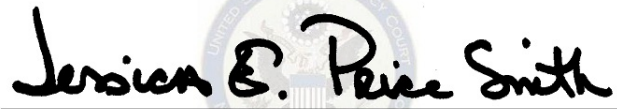


IT IS SO ORDERED.

Dated: 31 March, 2015 12:50 PM



Jessica E. Price Smith

JESSICA E. PRICE SMITH  
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES E  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:

Aurika A. Grynko

Debtor.

Chapter 7

CASE NO: 13-14006

ADV. PROC. NO. 14-01026

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Aurika A. Grynko

Plaintiff

v.

JUDGE JESSICA E. PRICE SMITH

GREAT LAKES HIGHER EDUCATION, ET AL.,  
Defendants

**TRIAL ORDER**

The matter before the Court is the Complaint of Plaintiff, Aurika A. Grynko, to Determine Dischargeability of Debt under 11 U.S.C. § 523(a)(8). (Doc. No. 1). The debt at issue is a federal student loan held by Defendant, Educational Credit Management Corporation. Plaintiff obtained the loan in 2001 and has an outstanding balance of \$23,265.69. The trial in this matter took place on December 17, 2014. For the reasons set forth below, Plaintiff's loans are not discharged.

Plaintiff is seeking to have her student loan debt discharged on the basis that repayment of the loan would constitute an undue hardship under Section 523(a)(8) of Title 11 of the United States Code. The Sixth Circuit follows the majority approach in applying the *Brunner*

test to determine whether repayment imposes an undue hardship on a debtor. *In re Oyler*, 397

F. 3d 382, 385 (6th Cir. 2005). The standard requires:

- 1) That the debtor cannot maintain, based on current income and expenses, a "minimal" standard of living for herself and her 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 a good faith effort to repay the loans.

*Id.* (citing *Brunner v. New York State Higher Educ. Serv. Corp.*, 831 F. 2d 395, 396 (2nd Cir. 1987)). A debtor must prove each prong by a preponderance of the evidence. *Chime v. Sun Tech Student Loan (In re Chime)*, 296 B.R. 439, 443 (Bankr. N.D. Ohio 2003). In the decision on the parties' cross-motions for summary judgment, this court found that the Plaintiff cannot maintain, based on her current income and expenses, a minimal standard of living for herself. The remaining issues to be determined at trial were whether circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period and whether a good faith effort was made to repay the loans.

Plaintiff asserts that she is and shall remain unable to obtain employment that will allow her to maintain more than a minimal standard of living and repay her student loan because of mental disorder and physical illness. The medical records entered as evidence in the trial support her assertion that in 2006 she was diagnosed with these ailments and that she has sought medical treatment for them at various times throughout the past 8 years. The only testimony provided about her condition, however, was her own. The Plaintiff's past medical records, without a medical opinion as to their current and future impact on her ability to obtain more gainful employment, are not sufficient to meet her burden of proof. Because the

Plaintiff has not shown by a preponderance of the evidence that her current condition is likely to persist for a significant portion of the repayment period, she has not satisfied the second prong of the *Brunner* test.

Since the Plaintiff does not meet the second prong of *Brunner*, there is no need to determine whether she made a good faith effort to repay her student loan. It is worth noting, however, that the refusal to accept an offer made pursuant to the Income Based Repayment Program is not grounds for a de facto finding of the failure of good faith. The Plaintiff's refusal to accept a plan in which she would make a zero dollar payment for 25 years is no more unreasonable than the Defendant's refusal to consent to the discharge of a debt for which it agreed to accept no payment for 25 years.

Accordingly, the relief sought in the Complaint is DENIED. The student loan at issue is not discharged. The parties are to bear their own costs and fees. The Defendant's cost may not be assessed to Plaintiff or added to her student loan obligation.

**IT IS SO ORDERED.**