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JUDGE: M. A. Mahoney

PARTIES: Latonya Renee Howard, Chemical Bank

CHAPTER: 7

ATTORNEYS:

DATE: 7/27/95

KEY WORDS:

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

In Re

LATONYA RENEE HOWARD

Case No. 94-12503-MAM-7

Debtor.

LATONYA RENEE HOWARD,

Plaintiff,

v.

Adv. No. 95-1052

CHEMICAL BANK,

Defendant.

ORDER AND JUDGMENT

This matter came before the Court on the complaint of Latonya Renee Howard to determine the dischargeability of her debt to Chemical Bank for an educational loan pursuant to 11 U.S.C. § 523(a)(8). The parties stipulated to the Court's jurisdiction to hear the matter and to the evidence to be considered. Based on the evidence, the debt is dischargeable as an "undue hardship on the debtor and the debtor's dependents." 11 U.S.C. § 523(a)(8)(B).

To prove undue hardship, a debtor must provide evidence that "her financial resources will allow her to live only at a poverty level standard for the foreseeable future if she is obligated to repay the student loan." *The Cadle Company v. Webb (In re Webb)*, 132 B.R. 199, 202 (Bankr. M.D. Fla. 1991). In this case, the debtor's income and expenses both are at poverty levels. With two minor children and an incarcerated spouse, there is no evidence that the situation will improve in the foreseeable future. *Clay v. Westmar College (In re Clay)*, 12 B.R. 251, 254 (Bankr. N.D. Ia. 1982).

Therefore, it is ORDERED AND ADJUDGED that Plaintiff, Latonya Renee Howard, is awarded a judgment against Chemical Bank declaring Plaintiff's debt to Defendant discharged pursuant to 11 U.S.C. §§ 727(b) and 523(a)(8).

Dated: July 27, 1995

MARGARET A. MAHONEY
U.S. BANKRUPTCY JUDGE