

undue hardship
11/30/79

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

In the Matter of:

IN BANKRUPTCY

CLEOAN EDNA CAROTHERS

No. 78-00274 Vol.

Bankrupt

WISCONSIN HIGHER EDUCATIONAL
AIDS BOARD

Plaintiff

vs.

CLEOAN EDNA CAROTHERS

Defendant.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND JUDGMENT

At Eau Claire, in said district, this 30th day of
November, 1979.

The above named plaintiff having duly filed its Complaint
in the above entitled matter praying that the debt due said
plaintiff by the defendant is not dischargeable in these pro-
ceedings; and an Answer having been filed by the defendant; and
a trial held in said matter; and the defendant having contended
that said debt is dischargeable under the existing Bankruptcy
Law prior to the 1978 amendments thereto based on the hardship
provision thereof; and the witnesses having been sworn; and the
Court having considered the arguments of counsel and the briefs
filed herein, and being fully advised in the premises, FINDS:

1. That on July 14, 1978, the plaintiff filed its
Complaint objecting to the dischargeability of its debt, and on
August 23, 1978, defendant filed her Answer thereto which stated
undue hardship as a legal and constitutional defense.

2. That the evidence shows that defendant had a budget
until October 18, 1979, in which there was approximately \$3.00
difference in her income over her expenses.

3. That to try to guess what defendant's future earnings will be is entirely unsatisfactory in determining the issues.

4. That defendant is presently unemployed and does not expect employment to resume in the area where she is living until sometime in 1980.

5. That the request of the plaintiff to adjourn the matter for a period of six months to see in what way defendant's status may change as to her ability to repay the loan is not a practical solution.

6. That defendant has sustained her position that to deny the discharge would be undue hardship to her in view of the existing Bankruptcy Law.

CONCLUSIONS OF LAW

That Judgment should be entered dismissing plaintiff's Complaint and granting a discharge to the defendant herein without costs to either party.

J U D G M E N T

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED:

1. That the plaintiff's Complaint be and the same is hereby dismissed upon the merits and without costs to either party.

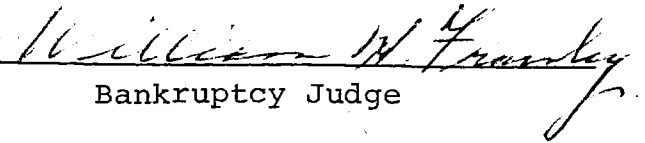
2. That any indebtedness claimed by said plaintiff be and the same is hereby subject to discharge and release in accordance with the provision of the Bankruptcy Act.

3. That the aforesaid indebtedness, if any, so claimed of the bankrupt to the plaintiff be and the same is hereby discharged and released.

4. Any judgment heretofore or hereafter obtained in any Court other than this Court in respect of the aforesaid indebtedness is null and void as a determination of the personal liability of the bankrupt in connection with the said indebtedness.

5. Wisconsin Higher Educational Aids Board be, and it hereby is enjoined from instituting or commencing any action or employing any process to collect the aforesaid indebtedness as a personal liability of the above named bankrupt.

BY THE COURT:


Bankruptcy Judge