

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 7
)	
ANNISE LATRA MABRY,)	CASE NO. 12-76810 - MHM
a/k/a SYNERGY EDUC. ASSOC.,)	
a/k/a ANNISE BARBER MABRY,)	
a/k/a ANNISE LATRA BARBER,)	
)	
Debtor.)	
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ANNISE LATRA MABRY,)	
)	
Plaintiff,)	ADVERSARY PROCEEDING
v.)	NO. 13-5075
)	
ARNE DUNCAN, SECRETARY,)	
UNITED STATES DEPT. OF EDUC.)	
and NELNET, INC.,)	
)	
Defendant.)	

ORDER ON MOTION TO DISMISS

This adversary proceeding is before the Court on the United States' *Motion to Dismiss*, filed August 16, 2013 (Doc. No. 25) (the "Motion"). Debtor initiated this proceeding February 28, 2013, by filing a *Complaint to Determine Dischargeability of Student Loans* (the "Complaint"). The Motion asserts the Complaint should be dismissed as moot because Debtor's student loans were administratively discharged prior to Debtor filing the underlying case. Debtor argues that the administrative discharge is subject to review and reinstatement until a date uncertain in 2014; therefore, the Complaint is not moot.


“A case is ‘moot’ when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *Troiano v. Florida Supervisor of Elections*, 382 F. 3d 1276 (11th Cir. 2004), *quoting Al Najjar v. Ashcroft*, 273 F. 3d 1330, 1335-36 (11th Cir. 2001). In *Faison v. Duncan*, 2012 WL 5076059 (N.D. Ga. 2012), the District Court found an action seeking discharge of the plaintiff's student loans was moot because the United States Department of Education (the "DoE") showed that the loans had "been totally and permanently discharged." In *Faison*, like the present case, the DoE granted the plaintiff an administrative discharge on its student loan obligations. The *Faison* case arose when the DoE revoked the administrative discharge and reinstated the debt; plaintiff reapplied for the discharge and commenced an action seeking review of the DoE's decision to reinstate the debt. The DoE granted the plaintiff a new administrative discharge before the plaintiff filed the complaint, and the DoE demonstrated to the District Court that plaintiff's debts had been *permanently* discharged; accordingly, the District Court determined no case or controversy existed.

The present case is easily distinguished from *Faison*. Defendant acknowledges that "Plaintiff's loan obligations could be reinstated if Plaintiff were to earn more than the federal poverty guidelines for a family of two prior to 2014." No other conditions appear to exist which would trigger revocation of the administrative discharge. *See* 34 C.F.R. § 682.402(c)(6)(i). While Plaintiff concedes that nothing in the record suggests the loan obligation will be reinstated, it is clear that the debt has not, as of yet, been *permanently* discharged. Thus, Plaintiff has a cognizable interest in the outcome of this proceeding,

which might result in an immediate and permanent discharge of Defendant's claim against Plaintiff. Accordingly, it is hereby

ORDERED that the Motion is *denied*.

IT IS SO ORDERED, this the 26th day of November, 2013.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE