

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 3:15-cv-488-J-32JRK

MARY A. BOCZEK,

Defendant.

ORDER

This case is before the Court on pro se Defendant Mary A. Boczek's "Motion to Vacate Order of 9/22/2015 or Re-Open Due to Sept. 25, 2015 Order is Valid [sic]" (Doc. 16), Motion for Legal Representation (Doc. 17), Motion for Extension of Time (Doc. 18), and Motion for Electronic Communications to Mary A. Boczek (Doc. 19). Boczek's request to reopen the case is due to be denied and the rest of her motions found moot. For her benefit, the Court will explain why, beginning with a bit of background.

Plaintiff United States filed this case on April 20, 2015 to obtain a federal court judgment on Boczek's unpaid federal student loan debt. (Doc. 12; see Doc. 1.) On May 22, 2015, Boczek asked for more time to respond to the complaint because she had applied for a Total and Permanent Disability ("TPD") discharge of her debt. (Doc. 7.) After requesting and receiving the United States' response to the request for more time, on June 8, 2015, the Magistrate Judge granted Boczek's request and stayed the case until September 7, 2015 so she could complete the TPD application process. (Doc. 12.) The United States was then to report back to the Court by September 7 on the

status of this case, including the status of Boczek's TPD application. (Id. at 3.) In the meantime, Boczek did not need to answer the complaint. (Id.)

The United States did not file anything by the September 7 deadline. So on September 14, the Magistrate Judge gave it ten days to explain why the Court should not dismiss the United States' case for failure to prosecute. (Doc. 13.) In response to that order, on September 21, the United States voluntarily dismissed its own case without prejudice and informed the Court that Boczek's TPD application had been approved. (Doc. 14.) Based on that notice, the undersigned entered an order of dismissal the following day. (Doc. 15.)

Boczek now asks the Court to vacate that order of dismissal and reopen the case. (Doc. 16.) But for two reasons, the case will remain dismissed and closed. First, as demonstrated by the letter Boczek attaches to her motion, her TPD application has been approved and her student loan debt has been discharged. (Doc. 16 at 2.) The United States has acknowledged those developments and, appropriately, dismissed this case, in which it was attempting to recover the debt from her. (Doc. 14.) Thus, the United States is no longer seeking to collect the debt in this action, and there does not appear to be anything left for the Court to decide.

Second, even if there were something left to decide, "a plaintiff [has] an unconditional right to dismiss [its] complaint by notice and without order of the court at any time prior to the defendant's service of an answer or a motion for summary judgment." Matthews v. Gaither, 902 F.2d 877, 880 (11th Cir. 1990); Fed. R. Civ. P. 41(a)(1)(A)(i). The dismissal needs no further court action and is effective

immediately upon filing the notice. Matthews, 902 F.2d at 880. Boczek has not filed an answer to the complaint (at her own request) and has not filed a motion for summary judgment. The United States' notice of voluntary dismissal was proper, and, again, there is nothing more for the Court to do. Moreover, because the case is due to remain dismissed and closed, Boczek's other motions are moot.

Accordingly, it is hereby

ORDERED:

1. Defendant Mary A. Boczek's "Motion to Vacate Order of 9/22/2015 or Re-Open Due to Sept. 25, 2015 Order is Valid [sic]" (Doc. 16) is **DENIED**.
2. Boczek's Motion for Legal Representation (Doc. 17), Motion for Extension of Time (Doc. 18), and Motion for Electronic Communications to Mary A. Boczek (Doc. 19) are **MOOT**.
3. The case remains dismissed and closed.

DONE AND ORDERED in Jacksonville, Florida this 29th day of September, 2015.


TIMOTHY J. CORRIGAN
United States District Judge

bjb
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