IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MONTE VAUNE CARDWELL,	)	
	)	
Plaintiff,	)	
	)	**CIVIL ACTION**
v.	)	
	)	**No. 12-1475-KHV**
UNITED STATES DEPARTMENT OF EDUCATION, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

Monte Vaune Cardwell brings suit pro se against the United States Department of Education, Financial Management Systems, Inc. and the Kansas Department of Children and Families for discharge of his student loans. Cardwell asserts that he is disabled and that he is entitled to discharge of his debt on that basis. See Civil Complaint (Doc. #1) filed December 31, 2012. Magistrate Judge Kenneth G. Gale granted plaintiff's motion to proceed in forma pauperis and pursuant to that order, the Clerk's office issued summons in this case. See Order On Amended Motion To Proceed Without Prepayment Of Fees (Doc. #9) filed June 6, 2013.

Plaintiff subsequently filed a motion to dismiss in which he states that he received written notification that the Department of Education has discharged his loans on the basis of his total and permanent disability, which cancels his obligation to repay the loan. See Motion To Dismiss (Doc. #13) filed June 26, 2013. Plaintiff attached to his motion copies of correspondence from Nelnet, the total and permanent disability servicing unit for the U.S. Department of Education (DOE), and from general counsel for Financial Asset Management Systems, Inc. Both of these documents confirm that plaintiff's student loan debt has been discharged. See Doc. #13 at 2-6. In its response to plaintiff's motion, DOE confirmed that it has granted plaintiff's application for a disability discharge of student loan debt

guaranteed by the United States and urged the Court to grant plaintiff's motion. See United States' Response To Cardwell's Motion To Dismiss (Doc. 13) (Doc. #18) filed July 16, 2013.

The Kansas Department for Children and Families (DCF) also filed a motion to dismiss pursuant to Fed. R. Civ. P. Rule 12(b) on the grounds that (1) plaintiff made no allegation that DCF played any role in the determination of plaintiff's eligibility for student loan discharge and therefore plaintiff failed to state a claim upon which relief may be granted (Rule 12(b)(6)), and (2) plaintiff's motion to dismiss reveals that no case or controversy exists and therefore the Court lacks jurisdiction (Rule 12(b)(1)). See Memorandum In Support Of Motion To Dismiss By Defendant Kansas Department For Children And Families (Doc. #21) filed July 22, 2013. Plaintiff did not respond to DCF's motion to dismiss.

Finally, DOE filed its own motion to dismiss under Fed. R. Civ. P. 12(b)(1), also arguing that this Court lacks jurisdiction because there is no longer a case or controversy. See Memorandum In Support Of Motion To Dismiss For Lack Of Subject Matter Jurisdiction By The United States Department Of Education (Doc. #25) filed August 26, 2013. Plaintiff did not respond to DOE's motion to dismiss.

The Court finds that the pending motions are in agreement and have merit. For the reasons stated in the motions and supporting memoranda, the Court grants the motions to dismiss.

IT IS THEREFORE ORDERED that plaintiff's Motion To Dismiss (Doc. #13) filed June 26, 2013, Motion To Dismiss By Defendant Kansas Department For Children And Families (Doc. #20) filed July 22, 2013 and Motion To Dismiss For Lack Of Subject Matter Jurisdiction By The United States Department Of Education (Doc. #24) filed August 26, 2013 be and hereby are **SUSTAINED**.

Dated this 16th day of April, 2014 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge