

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

AWG Docket No. 08-0150

In re: MARVIN DURET,

Petitioner

**DECISION AND ORDER**

This matter is before the Administrative Law Judge upon the request of the Petitioner, Marvin Duret, for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On July 8, 2008, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case will be resolved, and to direct the exchange of information and documentation concerning the existence of the debt.

The Respondent complied with that Order and a Narrative was filed and the Narrative and supporting documentation was provided to the Petitioner. A teleconference was held with the parties on November 18, 2008 to determine the status of the case and to set the matter for hearing. Mr. Duret was afforded a further opportunity to submit exhibits on his behalf and the matter was set for a telephonic hearing on December 9, 2008.

At the hearing on December 9, 2008, Mr. Duret appeared *pro se*. The Respondent was represented by Esther McQuaid of the St. Louis, Missouri Office and Yvonne

Emerson of the New Orleans office. Two exhibits (PX-1 & 2) were tendered by Mr. Duret and five exhibits (RX-1 through 5) were submitted by the Respondent. The testimony of the participants was under oath.

The first page of RX-5 is a USDA Rural Housing Service Form RD 3560-8 titled Tenant certification. Ms. Emerson testified that the form was used by Bayou Fountain Townhouses to certify eligibility for occupancy in the housing complex. The form as completed by the Petitioner and Amelia Smith reflected that the only income that they were receiving as of November 19, 2005 was AFDC in the amount of \$2,880. Page 4 of the same exhibit is a Self Certification of Income also signed by Mr. Duret on the same date indicating that on November 19, 2005, he had no income of any kind. RX-4, a Request for Verification of Employment, however reflects that Mr. Duret was employed on November 14, 2005, **only five days prior to his completing the forms for the Bayou Fountain Townhouses**. Mr. Duret admitted signing the forms and also admitted that the information concerning his employment contained in RX-5 was incorrect, but testified that the information had been filled in by Temika Smith, the Manager of the Complex and that he thought that he was applying for a FEMA program.

In addition to his testimony, Mr. Duret tendered two exhibits in his defense. PX-1 is a letter from Willie B. Martin indicating that Mr. Duret resided in a FEMA shelter trailer in front of his home from December 2005 through June of 2006. PX-2 is a letter from Amelia Smith indicating that she and Mr. Duret had moved into the Bayou Fountain Townhomes in November of 2005, but that he moved out when he became employed. As this account is contradicted by Mr. Duret's testimony, although PX-2 will be admitted, it will be given no weight.

On the basis of the record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

**Findings of Fact**

1. The Petitioner, Marvin Duret, applied for and received a United States Department of Agriculture (USDA) Rural Development (RD) rental subsidy to reside in the Bayou Fountain Townhouses in Baton Rouge, Louisiana by completing a Tenant Certification, Form RD 3560-8, certifying on November 19, 2005 that the only income received by Amelia Smith and himself was AFDC in the amount of \$2,880 per month. Page 1, RX-5.
2. On the same date, November 19, 2005, the Petitioner also completed a Temporary Housing Self Certification of Income indicating that he had no income of any kind and that there was no imminent change expected during the next 12 months. Page 4, RX-5.
3. The statements contained on RX-5 under penalty of perjury were in fact false and Mr. Duret knew that the statements were false as he had commenced working on November 14, 2005. RX-4.
4. As a result of the false statements made by the Petitioner, he received benefits in the amount of \$3,120.00 to which he was not eligible to receive.
5. The current balance after application of all funds received to date is \$684.92 as of December 9, 2008.

**Conclusions of Law**

1. The Petitioner, Marvin Duret, is indebted to USDA RD in the amount of \$684.92 as of December 9, 2008 for the federal benefits paid on his behalf to which he was not eligible to receive.
2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
3. The Respondent is entitled to administratively garnish the wages of the Petitioner, subject to the limitations set forth in 31 C.F.R. §285.11(i).

**Order**

For the foregoing reasons, the wages of the Petitioner, Marvin Duret, shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as specified in 31 C.F.R. § 285.11(i).

Copies of this Decision and order shall be served upon the parties by the Hearing Clerk's Office.

Done at Washington, D.C.  
December 9, 2008

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**PETER M. DAVENPORT**  
Administrative Law Judge

Copies to: Marvin Duret  
Esther McQuaid  
Dale Theurer

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