

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 08-0170

In re: THERESA CRUEA,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of the Petitioner, Theresa Cruea, 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 October 7, 2008, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved and to direct the exchange of information and documentation concerning the existence of the debt and the Petitioner's ability to pay any debt established.

Both parties complied with that Order. The Respondent filed a Narrative together with supporting documentation. The Petitioner filed schedules reflecting her assets and liabilities as well as her current income and monthly expenses. A teleconference was held with the parties on January 8, 2009. The Petitioner participated *pro se*, unassisted by counsel. The Respondent was represented by Mary Kimball and Gene Elkin, both from the Rural Development Office, United States Department of Agriculture, Saint Louis, Missouri. During the teleconference, Ms. Cruea indicated that she did not dispute the amount of the debt, that she did not have any additional exhibits to submit that were not already in the record and would not be calling any witnesses. Ms. Cruea indicated that as

a result of the general economic condition, the number of hours that she was allowed to work had been cut to 20 hours per week and that further cuts or lay-offs were possible. She also indicated that the child support that her ex-husband has been ordered to pay will be terminated as her daughter will soon be 18 years of age. The record reflects that her receipt of child support has been problematic as there is an arrearage noted and that she is unable to depend upon regular receipt of the sums owed.

Based upon Ms. Cruea's testimony concerning her current income, her current gross weekly income amounts to \$196.00 per week (20 hours @ \$9.80/hour) or a monthly average of \$842.00 (\$196.00 x 4.3 weeks/month). Even were she to receive the child support which her husband has been ordered to pay (\$483.41/month + \$96.68 arrearage), the Petitioner's necessary monthly expenses of rent, utilities, groceries, transportation and insurance expenses considerably exceed her monthly income.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On February 22, 1999, the Petitioner, Theresa Cruea applied for and received a home mortgage loan from the United States Department of Agriculture (USDA) Rural Development (RD) for property located at 825 Hemlock, Celina, Ohio in the amount of \$64,225.00 (Loan Number 0019282967). RX-1.
2. In 2005, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. Respondent's Narrative.

3. The secured property was sold at foreclosure sale on January 3, 2007 for \$34,633.83. RX-4.

4. Subsequent collection activity by the Department of Treasury has reduced the amount due by \$8,921.00 leaving the amount remaining due after application of all recovery to date is \$25,594.19. RX-4.

5. The Petitioner's current income from all sources is exceeded by necessary monthly expenses.

Conclusions of Law

1. The Petitioner, Theresa Cruea is indebted to USDA RD in the amount of \$25,594.19.

2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

3. Based upon the Petitioner's current income and necessary living expenses, administrative wage garnishment of the wages of the Petitioner would cause financial hardship to her.

4. Due to the finding of financial hardship, administrative wage garnishment is not authorized at this time.

5. The Respondent may review the Petitioner's hardship at least annually and may reinstitute proceedings if it receives information that the Petitioner's financial condition has materially changed.

Order

For the foregoing reasons, administrative wage garnishment of the wages of the Petitioner, Theresa Cruea, is **not** authorized at this time, without prejudice to reinstating proceedings should there be a material change in the Petitioner's financial condition.

This matter is stricken from the active docket.

Copies of this Decision and Order will be served upon the parties by the Hearing Clerk.

Done at Washington, D.C.
January 12, 2009

PETER M. DAVENPORT
Administrative Law Judge

Copies to: Theresa Curea
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