

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 09-0166
)
Christopher Shoup)
)
Petitioner)

Decision and Order

This matter is before me on the petition of Christopher A. Shoup, contesting the efforts of the United States Department of Agriculture’s Rural Development office, to garnish his wages in order to obtain repayment of a debt of \$20,297.50. In this decision, I conclude that Petitioner is liable for the debt, but that due to financial considerations the garnishment should be limited to \$75.00 monthly (\$37.50 per paycheck).

I issued a prehearing order in this matter on September 2, 2009, requesting that the parties submit witness lists, exhibits and other information concerning the existence of the debt, who was liable for the debt, and Petitioner’s ability to pay the debt. Both parties submitted timely responses to my order.

Pursuant to 7 CFR § 3.62, I conducted a telephonic hearing on December 1, 2009. Petitioner represented himself, while the USDA was represented by Mary Kimball and Gene Elkin. Petitioner was the only witness who testified.

The amount of the debt was not an issue. Petitioner and his then-wife, Tracy L. Shoup, purchased a home in Herscher, Illinois in September, 2001. The house was financed through a Rural Housing Service Loan. Ex. RX-1. The Shoups were divorced

on February 11, 2003. As part of the divorce decree, Tracy Shoup was granted possession of the house, with the requirement that she make the mortgage payments. Ex. CS-1. The payments were not forthcoming from Ms. Shoup, however, and the house was sold in foreclosure on September 12, 2008, leaving \$20,297.50 due to Rural Development. Ex. RX-4. Petitioner made numerous efforts before the foreclosure sale to force Tracy Shoup to honor her obligations to pay the mortgage, but was unsuccessful. Respondents commenced separate actions against Petitioner and Tracy Shoup, and the latter action was stayed after Petitioner requested this hearing.

The primary focus of Petitioner's testimony, other than the general unfairness in his being liable for a mortgage due to his former spouse's actions and inactions, was his financial condition. Petitioner has remarried and has a 3 year old child with his wife. Exs. CS-6, CS-7. He is a schoolteacher with a current annual income of approximately \$ [REDACTED] and his wife is also a schoolteacher with an annual income of approximately \$ [REDACTED]. He pays \$ [REDACTED] in child support for his two children from his marriage to Tracy Shoup, and his current student loan payments are \$ [REDACTED] per month. He currently resides in a house with his wife and daughter, where the mortgage is in his wife's name due to the fallout in terms of credit ranking resulting from his ex-wife's failure to pay the previous mortgage and resulting foreclosure. School and day care for his 3 year old is approximately [REDACTED] per month. Mr. Shoup testified that the household's combined net pay is [REDACTED] with combined expenses of \$ [REDACTED]. Mr. Shoup understood his responsibility for the debt but contended that any payments would constitute a hardship.

While Mr. Shoup did not document every one of his expenses, it is clear to me his ability to repay the amount due is severely limited by his basic expenses, including costs

associated with the support of his children. I find that reasonable garnishment would be \$75 per month, or \$37.50 per paycheck. In assessing this amount, I am mindful of the assurances by Ms. Kimball and Mr. Elkin that Respondents are continuing in their efforts to seek payment from Tracy Shoup¹.

Findings of Fact

1. On September 5, 2001, Petitioner Christopher A. Shoup and his then-wife, Tracy Shoup, purchased a home in Herscher, Illinois, which was financed in part by a promissory note for \$80, 880 with USDA's Rural Housing Service. Ex. RX-1.

2. Petitioner and Tracy Shoup were divorced on February 11, 2003. Ex. CS-1. The divorce decree provided that Tracy Shoup would live in the jointly purchased home and would be responsible for making the payments on the note. However, Tracy Shoup did not keep up the payments, and the house was subsequently sold at foreclosure on September 12, 2008. As a result of the foreclosure sale, Petitioner and Tracy Shoup jointly owed a balance of \$20,297.50 to USDA.

3. Petitioner has remarried and has a child with his current spouse. Petitioner is employed full-time as a school teacher, as is his wife, is paying 21% of his gross pay for the support of two children from his marriage to Tracy Shoup, is making federal student loan payments of \$ [REDACTED] monthly, and has substantial other expenses relating to mortgage, child care and car ownership.

4. I have determined that Petitioner can pay, through the garnishment process, \$75 monthly (\$37.50 per bi-monthly pay period).

¹ Presumably, Petitioner will have a right of recovery in state court against Tracy Shoup for any amounts he pays pursuant to this garnishment order.

Conclusions of Law

1. Petitioner Christopher A. Shoup is indebted to the USDA, Rural Development, in the amount of \$20, 297.50.

2. Petitioner's ex-wife, Tracy Shoup, appears to be jointly liable for the same debt as Petitioner.

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

4. Respondent is entitled to administratively garnish the wages of Petitioner, but the amount of the garnishment is limited to \$75 per month (\$37.50 per pay period.).

Order

For the foregoing reasons, the wages of the Petitioner, Christopher A. Shoup, shall be subject to administrative wage garnishment at the rate of \$75 per month, 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. this
8th day of December, 2009

MARC R. HILLSON
Chief Administrative Law Judge