

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 10-0254**
Burnnese K. James)
)
Petitioner) **Decision and Order**

1. The hearing was held by telephone on August 18, 2010. Ms. Burnnese K. James, the Petitioner (“Petitioner James”), participated, representing herself. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Mary E. Kimball and Gene Elkin.

2. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

Summary of the Facts Presented

3. Petitioner James owes to USDA Rural Development a balance of **\$13,809.35** (as of June 8, 2010) in repayment of a loan made in 1991 (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed July 8, 2010), which are admitted into evidence.

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects) on **\$13,809.35** would increase the current balance by \$3,866.62, to \$17,675.97. *See* USDA Rural Development Exhibits, esp. RX-4.

5. Petitioner James’s testimony and exhibits (filed July 27 and 29, 2010), which are

admitted into evidence, prove that she is paid [REDACTED] per hour, working full-time as a certified nurse aide. Petitioner James testified that her health care needs include treatment for blood pressure and sinus problems. Petitioner James testified that she is nearly 58 years of age and approaching retirement after 30 years of hard physical work.

6. Petitioner James' disposable pay of about [REDACTED]0 per month does not currently support garnishment, which would create hardship, given her reasonable living expenses which include out-of-pocket medical expenses. 31 C.F.R. § 285.11.

7. Petitioner James is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

8. Through August 31, 2011, NO garnishment is authorized. *See* paragraphs 5 and 6. I encourage **Petitioner James and the collection agency to negotiate promptly** the repayment of the debt. Petitioner James, this will require **you** to telephone the collection agency about two to three weeks after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner James, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less.

9. Petitioner James has made substantial progress repaying, primarily through her income tax refunds.

Findings, Analysis and Conclusions

10. The Secretary of Agriculture has jurisdiction over the parties, Petitioner James and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

11. Petitioner James owes the debt described in paragraphs 3 and 4.

12. **Through August 31, 2011, NO garnishment is authorized.** 31 C.F.R. § 285.11.

13. This Decision does not prevent repayment of the debt through *offset* of Petitioner James' **income tax refunds** or other **Federal monies** payable to the order of Ms. James.

Order

14. Until the debt is repaid, Petitioner James shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address;

delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

15. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment **through August 31, 2011**.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 24th day of August 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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