

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

In re:	)	AWG Docket No. 10-0268
	)	
David Douth,	)	
	)	
Petitioner	)	<b>Decision and Order</b>

On August 24, 2010, I held a hearing on a Petition to Dismiss the administrative wage garnishment proceeding to collect the debt allegedly owed to Respondent, USDA, Rural Development for losses it incurred under and a loan given by Respondent to Petitioner, David Douth, and his former wife, Betsy Douth. Petitioner David Douth was represented by his attorney, Richard Winkler. Respondent, USDA Rural Development, was represented by Mary Kimball. Petitioner, David Douth, and Mary Kimball who testified for Respondent, were each duly sworn.

Respondent proved the existence of the debt owed by Petitioner for payment of the loss Respondent sustained on the loan given to Petitioner and his former wife to finance the purchase of a home located at 78 2<sup>nd</sup> Ave., Franklin, PA 16323. The loan was evidenced by a Promissory Note in the amount of \$23,000 dated June 2, 1981(RX-2). On November 18, 1996, Petitioner and Betsy Douth were divorced by decree of the Court of Common Pleas of Venango County, Pennsylvania (Exhibit P-1). Under the terms of the divorce, Betsy Douth assumed full responsibility for the loan on the home and agreed to hold Petitioner harmless from the payment of that debt. Betsy Douth did not keep up the

payments and defaulted on the loan. A foreclosure sale was held on December 4, 2000, and USDA, Rural Development received \$9,876.69. Prior to the sale, the amount owed to Respondent, USDA, Rural Development, was \$35,280.46 for principal, interest, and other expenses. After the sale, Petitioner owed \$25,580.98. Since the sale, \$6,404.26 has been collected by the U. S. Treasury Department in offsets from income tax refunds that Petitioner otherwise would have received. The amount that is presently owed on the debt is \$19,176.72 plus potential fees to Treasury of \$5,369.48, or \$24,546.20 total.

Petitioner has remarried and is employed as a Resident Service Aide at the State mental hospital. Petitioner earns [REDACTED] net per month. His wife earns approximately the same amount each month and they split the monthly living expenses. Petitioner has filed and testified to the accuracy of a Consumer Debtor Financial Statement that shows his share of the monthly family expenses to be approximately [REDACTED] 0 and when deducted from his net monthly income, there is virtually no disposable income that may presently be subject to wage garnishment. I have concluded that the present collection of any part of the debt would cause Petitioner undue, financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11.

USDA, Rural Development has met its burden under 31 C.F.R. §285.11(f)(8) that governs administrative wage garnishment hearings, and has proved the existence and the amount of the debt owed by the Petitioner. On the other hand, Petitioner showed that he would suffer undue financial hardship if any amount of money is garnished from his disposable income at any time during the next six (6) months. During that time, Mr. Doult will contact Treasury to discuss a settlement plan to pay the debt.

Under these circumstances, the proceedings to garnish Petitioner's wages are suspended and may not be resumed for six (6) months from the date of this Order.

Dated:

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Victor W. Palmer, Administrative Law Judge