

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0373

In re: Barbara Smith,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Barbara Smith 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 August 31, 2010, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing on November 18, 2010.

The Respondent filed a Narrative together with supporting documentation on September 20, 2010. The Petitioner filed her documentation on October 20, 2010 with the Hearing Clerk's Office. At the time that she requested a hearing and in the materials which she filed, the Petitioner indicated that she did owe the full amount of the debt, that she has paid over \$15,000.00 on the debt, that she is only person in her household working and that garnishment would impose a significant hardship. She also indicates that she is attending school to improve her earning capacity. In her testimony, she indicated that she had to start with only a GED and that she was still some time away from attaining a two year degree.

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

Findings of Fact

1. On March 15, 1994, the Petitioner and her then husband Kenneth Wayne Smith received a home mortgage loan in the amount of \$65,800.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Labelle, Florida. RX-1, 2.
2. The property was sold at a foreclosure sale on May 27, 1998 with proceeds realized by USDA from that sale in the amount of \$30,751.00, leaving a balance due of \$30,258.06. RX-4.
3. Since the sale proceeds were received, USDA has received \$13,171.91 in offsets from Treasury. RX-5.
4. From the testimony, amounts are being collected from both the Petitioner and her ex-husband.
5. The remaining unpaid debt is in the amount of \$17,086.15 exclusive of potential Treasury fees. RX-5.
6. The record indicates that the Petitioner's income and expenses are roughly the same and that garnishment would impose a hardship upon the Petitioner at this time.

Conclusions of Law

1. Barbara Smith is indebted to USDA Rural Development in the amount of \$17,086.15 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. The Petitioner is under a financial hardship at this time and is not eligible to be garnished; however, review after a period of twelve months would be appropriate.

4. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Barbara Smith shall **NOT** be subjected to administrative wage garnishment at this time, but may be reviewed after a year determine whether the Petitioner's financial condition has improved. The debt will remain at Treasury for appropriate collection under the Treasury Offset Program.

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

Peter M. Davenport
Chief Administrative Law Judge

Date: November 18, 2010

Copies to: Barbara Smith
Mary Kimball
Dale Theurer

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