

**In re: ROY NICKERSON.
AWG Docket No. 10-0008.
Decision and Order.
Filed December 2, 2010.**

AWG

Mary E. Kimball, for RD.
Petitioner, Pro se.
Decision issued by Victor W. Palmer, Administrative Law Judge.

Pursuant to a Hearing Notice, I held a hearing in this proceeding by telephone, on December 2, 2010, at 3:00 PM, Eastern Time. Petitioner, Roy Nickerson, and Respondent's representative, Mary E. Kimball, participated and were sworn. Ms. Kimball introduced, identified and authenticated records regularly maintained by USDA, Rural Development that were received as Exhibits RX-1 through RX-6. Petitioner completed and filed a "Consumer Debtor Financial Statement" that he verified as accurate and it was received in evidence. At issue is the nonpayment of a debt owed to USDA, Rural Development on a home mortgage loan on property that Mr. Nickerson had owned with his former wife, Lola Nickerson, who was given the home under the terms of their divorce decree that ordered her to pay the remaining debt.

However, she did not. The property was sold in a foreclosure sale that, after payment of the remaining principal, interest and various expenses, left a debt of \$27,884.09 owed to USDA, Rural Development. Since then, \$13,092.83 was received from Treasury by way of offsets against income tax refunds. Mr. Roy Nickerson is employed by a college performing a maintenance work at salary which, after deducting necessary living expenses, would result in undue financial hardship if more than \$70.00 per month is garnished from his salary.

Findings

The testimony and exhibits received in evidence proved that:

On October 9, 1985, petitioner and his former wife obtained a loan in the amount of \$44,100.00 from USDA Farmers Home Administration (now USDA, Rural Development) for the purchase of a home at 6000 Meadowbrook Dr., Hitchcock, TX 77563 (RX-1).

The mortgage loan was not paid and the property was sold at a

foreclosure sale, on December 1, 1998. USDA, Rural Development received \$22,000.00 from the sale. At that time, the amount due to USDA, Rural Development for principal, interest and fees was \$49,884.00. After the funds from the foreclosure sale were applied, the amount of the debt still owed was \$27,884.09. Since the sale, USDA, Rural Development has received \$13,092.83 from the U.S. Treasury Department. The balance owed to USDA, Rural Development is \$14,791.26 plus an additional \$4,141.55 owed to Treasury for potential collection fees for a total of \$18,932.81 (RX-3 and RX-4).

Mr. Nickerson is currently employed performing maintenance work for a college at a monthly wage of [REDACTED]. He resides with and supports a 13 year old daughter. He pays [REDACTED] per month for rent, car payments, gasoline, electric, natural gas, food, cable TV, clothing, water, telephones and auto insurance. Upon deducting these expenses from his net monthly income, [REDACTED] remains. Inasmuch as a maximum of 15% may be garnished from disposable income, the amount that may appropriately be garnished from his monthly salary may not exceed [REDACTED].

Conclusions

1. USDA, Rural Development has proven that Roy Nickerson is indebted to USDA, Rural Development in the amount of \$14,791.26 plus an additional \$4,141.55 is owed to Treasury for potential collection fees for a total of \$18,932.81.

2. Based upon the Petitioner's current income and necessary living expenses, administrative wage garnishment of Petitioner's wages shall be at the rate of [REDACTED] 0 per month. A higher amount of monthly garnishment would cause him undue financial hardship.

Order

For the foregoing reasons, administrative wage garnishment of the wages of the Petitioner, Roy Nickerson may be made provided the sum garnished each month does not exceed [REDACTED].

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