

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0398

In re: Brice Covington,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Brice Covington 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 September 27, 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 December 14, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on November 4, 2010. Brice Covington filed his documentation with the Hearing Clerk on December 19, 2010. At the hearing, sworn testimony was received from the Petitioner and Mary E. Kimball, Accountant for the New Programs Initiatives Branch, Rural Development (RD), United States Department of Agriculture, St. Louis, Missouri.

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 , the Brice Covington assumed a Farmers Home Administration (FmHA) home loan in the amount of \$43,042.62 and also received a home mortgage loan in the amount of \$16,000.00 from FmHA, United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Kingman, Arizona. RX-1, 2, 3.
2. The property was sold at a short sale on April 1, 1999 with proceeds realized from that sale in the amount of \$60,000.00, leaving a balance due of \$10,113.57. RX-6.
3. Treasury offsets totaling \$1,007.86 exclusive of Treasury fees have been received. RX-6.
4. The remaining unpaid debt is in the amount of \$9,105.71 exclusive of potential Treasury fees. RX-7.
5. The recurring monthly expenses of the Petitioner and his disabled wife approximate his monthly income and the couple has significant other debt.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Brice Covington is indebted to USDA Rural Development in the amount of \$9,105.71 exclusive of potential Treasury fees for the mortgage loan extended to him.
3. The Petitioner is under a financial hardship at this time.
4. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of Brice Covington shall **NOT** be subjected to administrative wage garnishment at this time, but may be reviewed after a period of one year to determine whether there has been a significant improvement in his financial condition. The debt will remain at Treasury for other appropriate collection action.

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

December 14, 2010

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Brice Covington
 Mary Kimball
 Dale Theurer

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