

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 11-0142**
Doris E. Paige,)
)
Petitioner) **Decision and Order**

1. The hearing by telephone was held as scheduled on April 13, 2011. Doris E. Paige, the Petitioner (“Petitioner Paige”), participated, representing herself (appearing *pro se*).
2. 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. 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

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Summary of the Facts Presented

3. Petitioner Paige owes to USDA Rural Development a balance of **\$24,715.88**, in repayment of a \$42,500.00 United States Department of Agriculture Farmers Home Administration loan made in 1988 for a home in Mississippi, the balance of which is now unsecured (“the debt”). See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed March 23, 2011), plus Mary Kimball’s testimony, all of which are admitted into evidence. See especially RX 7 for the loan balance, plus Mary Kimball’s testimony that another \$182.50 from garnishment has been applied to the debt since RX 7 was prepared. [The loan balance will change, because garnishment is ongoing; the balance may have been reduced by the time I sign this Decision.]

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$24,715.88** would increase the current balance by \$6,920.45, to \$31,636.33. *See* RX 7, plus Mary Kimball's testimony that another \$182.50 from garnishment has been applied to the debt, which changes the figures from those shown on RX 7.

5. About 10 years after the loan was made, the loan was reamortized, in 1998. RX 2. The loan had become delinquent, and the reamortization made the loan current, by adding unpaid interest to the principal balance. Petitioner Paige was not able to keep the loan current; she testified that she was unable financially to stop the foreclosure. *See* RX 4 and RX 5.

6. Petitioner Paige's Hearing Request and attached statements (including her Financial Statement, wage stub copies, and bill copies); and Petitioner Paige's testimony, are all admitted into evidence. Petitioner Paige was devastated by her son's death in about April 2000. RX 5, p. 5, and Petitioner Paige's testimony. Petitioner Paige's son was killed in St. Louis, Missouri, and Petitioner Paige went to St. Louis, which caused her to be out of work and contributed to her falling behind in paying the loan. RX 5, p. 5. Petitioner Paige testified that her son's death impacted her health, so that for years she was unable to work much, if at all.

7. In June 2000, Petitioner Paige would have been able to stop the foreclosure sale by paying the \$1,725.05 in arrears, plus paying any real estate tax and homeowner's insurance that needed to be paid to be current. RX 5, p. 1. Petitioner Paige failed to do so. The foreclosure sale was held on October 30, 2001. By the time of the foreclosure sale, \$3,543.02 in interest had accrued, and \$885.00 in fees. The \$44,790.30 due prior to the foreclosure sale included:

\$ 40,362.28	principal
3,543.02	accrued interest
<u>885.00</u>	"fee" balance
\$ 44,790.30	

less escrow balance - 15.18

\$ 44,775.12
=====

RX 6.

8. The foreclosure sale on October 30, 2001 yielded \$18,670.00, which reduced the \$ 44,775.12 amount owed to \$26,105.12. Additional pre-foreclosure fees (\$526.92) increased the debt to \$26,632.04. A \$1,308.00 Treasury *offset*, minus the \$11.75 collection

fee, has paid down the debt by \$1,296.25; and recent garnishments minus collection fees have paid down the debt by \$619.91 (\$437.41, plus the \$182.50 Mary Kimball testified about), reducing the balance to **\$24,715.88**. *See* RX 6.

9. Petitioner Paige's evidence (described in paragraph 6) shows that Petitioner Paige works as a caregiver/sitter (PRN), making \$7.25 per hour (gross), or \$8.25 per hour (gross), or \$12.75 per hour (gross), depending on her assignment and her hours. Garnishment is ongoing. Petitioner Paige needs reliable transportation, especially to get to work, and she testified that she does not have it because she cannot afford to get it. She testified that she pays \$1,200.00 per month for rent, and that does not include utilities. *See also* her documentary evidence. It appears to me that garnishment any greater than \$20.00 per pay period would result in **financial hardship** to Petitioner Paige and is NOT authorized. 31 C.F.R. § 285.11.

10. Further, Petitioner Paige needs to determine whether she is required to file income tax returns for the past few years. Petitioner Paige, even if you would have difficulty finding W-2 forms and other papers you need, a qualified person such as an accountant can advise and assist you. Please ask for help.

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

Discussion

12. Garnishment any greater than \$20.00 per pay period would result in **financial hardship** to Petitioner Paige and is NOT authorized. 31 C.F.R. § 285.11. *See* paragraph 9. I encourage **Petitioner Paige and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Paige, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Paige, 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.

Findings, Analysis and Conclusions

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

14. Petitioner Paige owes the debt described in paragraphs 3 through 8.

15. Garnishment any greater than \$20.00 per pay period would result in **financial hardship** to Petitioner Paige and is NOT authorized. 31 C.F.R. § 285.11. I am NOT,

however, ordering any amounts already collected through garnishment of Petitioner Paige's pay prior to implementation of this Decision to be returned to Petitioner Paige.

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

Order

17. Until the debt is repaid, Petitioner Paige 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).

18. USDA Rural Development, and those collecting on its behalf, are already garnishing Petitioner Paige's pay, but garnishment any greater than \$20.00 per pay period would result in **financial hardship** to Petitioner Paige and is NOT authorized. 31 C.F.R. § 285.11.

19. USDA Rural Development, and those collecting on its behalf, will NOT be required to return to Petitioner Paige any amounts already collected through garnishment of Petitioner Paige's pay, prior to implementation of this Decision.

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

Done at Washington, D.C.
this 18th day of April 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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