

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 11-0239
)	
Kimberly Westmoreland,)	
)	
Petitioner)	Decision and Order

On July 19, 2011, I held a hearing by telephone on a Petition to Dismiss an administrative wage garnishment proceeding to collect a debt allegedly owed to Respondent, USDA, Rural Development for losses it incurred under an assumption of a mortgage and an additional loan it gave to Petitioner, Kimberly Westmoreland. Petitioner was not represented by an attorney, and represented herself pro se. Respondent, USDA Rural Development, was represented by Mary Kimball. Petitioner, Kimberly Westmoreland, and Mary Kimball who testified for Respondent, were each duly sworn.

Respondent proved the existence of the debt owed by Petitioner for payment of losses Respondent sustained on an assumption of a mortgage and an additional loan given to Petitioner, Kimberly Westmoreland, to purchase a home located at 304 Windmill Circle, Greenwood, South Carolina. The assumed mortgage in the amount of \$26,350.17 is evidenced by RX-3, and the additional loan is evidenced by a Promissory Note and a Mortgage in the amount of \$16,980.00, dated April 4, 1996 (RX-4 and RX-5). Payments were not made on the loans and a short sale was held on October 2, 2000. USDA, Rural Development received \$24,000.00 from the sale. Prior to the sale, the combined amount

Petitioner owed on the assumed loan and the additional mortgage loan to Respondent, USDA, Rural Development, was \$45,799.46 for principal, accrued interest and fees. Petitioner owed \$21,799.46 after the sale proceeds were posted (RX-8). Since the sale, \$2,369.12 has been collected by the U. S. Treasury Department. The amount that is presently owed on the combined debt is \$19,430.34 plus potential fees to Treasury of \$5,440.50, or \$24,870.84 total (RX-9). Petitioner has been employed as a Certified Medical Assistant by Medical Consultants of the Carolinas for 12 months earning a net monthly income of [REDACTED]. She is making monthly payments of [REDACTED] for a car that is needed to get to and from work. In addition to the car payments that will end in December, Petitioner has monthly expenses of: rent-[REDACTED]; gasoline-[REDACTED] electricity-[REDACTED] food-[REDACTED]; cable-[REDACTED] dental-[REDACTED] and clothing-[REDACTED]. Her present total monthly expenses of \$2,056, when deducted from her net monthly income of [REDACTED], leave her with no disposable income that may now be subject to wage garnishment. After Petitioner completes her car payments six months from now, no more than [REDACTED] per month may then be garnished from her wages in order that excessive financial hardship is not imposed upon her.

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 she has no present disposable income. Under these circumstances, I have decided and hereby

order that nothing may be garnished from Petitioner's wages for the next six months, and after six months no more than [REDACTED] per month may then be garnished from her wages.

Dated:

Victor W. Palmer
Administrative Law Judge