

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 11-0347**
Ronald L. Wallace,)
)
Petitioner) **Decision and Order**

1. The hearing by telephone was held on September 22, 2011. Mr. Ronald L. Wallace, the Petitioner (“Petitioner Wallace”), participated, representing himself (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 Wallace owes to USDA Rural Development **\$4,404.52** in repayment of a loan made in 1995 by the United States Department of Agriculture Farmers Home Administration, now known as USDA Rural Development. Petitioner Wallace borrowed to buy a home in Missouri. The **\$4,404.52** balance is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed September 2, 2011), which are admitted into evidence, together with the testimony of Mary Kimball.
4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$4,404.52** would increase the current balance by \$1,233.27, to \$5,637.79. *See* USDA Rural Development Exhibits, esp. RX 6.

5. The loan Petitioner Wallace borrowed in 1995 from USDA Farmers Home Administration was \$29,530.00. By the time of the foreclosure sale in 1998, that debt had grown to \$31,335.70:

\$ 29,081.73	Principal Balance prior to foreclosure sale
<u>\$ 2,253.97</u>	Interest Balance prior to foreclosure sale
\$ 31,335.70	Total Amount Due prior to foreclosure sale
=====	
- <u>\$ 17,001.00</u>	Proceeds from foreclosure sale
\$ 14,334.70	
+ <u>\$ 162.10</u>	Pre foreclosure fees
\$ 14,496.80	Unpaid in 1998
=====	

RX 5.

So the foreclosure sale left \$14,496.80 unpaid in 1998.

6. Since the foreclosure sale, no additional interest has accrued, and numerous *offsets* during 2000 through 2007, mostly Federal income tax refunds, have reduced the balance substantially, by another \$10,092.28 applied to the debt, leaving **\$4,404.52** unpaid now (excluding the potential remaining collection fees). See RX 5 and RX 6. The last collection shown was in 2007. RX 5, p. 2.

7. Petitioner Wallace's testimony and his Hearing Request (including his letter dated August 1, 2011) are admitted into evidence, together with the documents he filed during September 2011, including his Consumer Debtor Financial Statement. Petitioner Wallace and his wife support 6 children in addition to themselves. Although Petitioner Wallace has the support of his wife, she is **not** liable to repay the debt at issue here. Petitioner Wallace's current reasonable and necessary living expenses consume his disposable pay (within the meaning of 31 C.F.R. § 285.11). [Disposable pay is gross pay minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.]

8. Petitioner Wallace points out that the debt would have long since been paid in full, if his income tax refunds had been *offset* since 2007, OR if his payment plan had not been rejected. Petitioner Wallace's disposable pay (within the meaning of 31 C.F.R. § 285.11) does **not** currently support garnishment and **no** garnishment is authorized through **October 2012**.

9. To prevent hardship, potential garnishment to repay “the debt” (*see* paragraph 3) must be limited to **0%** of Petitioner Wallace’s disposable pay through **October 2012**; then, beginning no sooner than November 2012, following review of Petitioner Wallace’s financial circumstances to determine what amount of garnishment he can withstand without financial hardship, garnishment up to 15% of Petitioner Wallace’s disposable pay is authorized. 31 C.F.R. § 285.11.

10. Petitioner Wallace, you may want to negotiate the disposition of the debt with Treasury’s collection agency. *See* paragraph 11.

Discussion

11. NO garnishment is authorized (*see* paragraph 9). Petitioner Wallace, you may want to **negotiate** the disposition of the debt. Petitioner Wallace, this will require **you** to telephone Treasury’s collection agency. The toll-free number for you to call is **1-888-826-3127**.

Findings, Analysis and Conclusions

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

13. Petitioner Wallace owes the debt described in paragraphs 3, 4, 5 and 6.

14. **NO garnishment is authorized through October 2012**. Petitioner Wallace cannot withstand garnishment in any amount without creating financial hardship. Beginning no sooner than November 2012, following review of Petitioner Wallace’s financial circumstances to determine what amount of garnishment he can withstand without financial hardship, garnishment up to 15% of Petitioner Wallace’s disposable pay is authorized. 31 C.F.R. § 285.11.

15. This Decision does not prevent repayment of the debt through *offset* of Petitioner Wallace’s **income tax refunds** or other **Federal monies** payable to the order of Mr. Wallace.

Order

16. Until the debt is repaid, Petitioner Wallace shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in his mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

17. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment through **October 2012**. Beginning no sooner than November 2012, following review of Petitioner Wallace's financial circumstances to determine what amount of garnishment he can withstand without financial hardship, garnishment up to 15% of Petitioner Wallace's disposable pay is authorized. 31 C.F.R. § 285.11.

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

Done at Washington, D.C.
this 23rd day of September 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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