

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

|                           |   |  |
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| In re:                    | ) |  |
|                           | ) | [AWG]  |
| Theresa M. Skinner, n/k/a | ) | Docket No. <b>12-0592</b>                                |
|                           | ) |  |
| Theresa M. Heidecker,     | ) |  |
|                           | ) | <b>Remand to USDA Rural Development and</b>              |
| Petitioner                | ) | <b>Dismissal of Garnishment Proceeding and This Case</b> |

Appearances:

Theresa M. Skinner, now known as Theresa M. Heidecker, representing herself (appearing *pro se*); and

Giovanna Leopardi, Appeals Coordinator, United States Department of Agriculture, Rural Development, Centralized Servicing Center, St. Louis, Missouri, for the Respondent (USDA Rural Development).

1. The hearing by telephone was held on September 28, 2012. Theresa M. Heidecker, formerly known as Theresa M. Skinner, the Petitioner (“Petitioner Heidecker”), participated, representing herself (appearing *pro se*).
2. Rural Development, an agency of the United States Department of Agriculture (USDA), the Respondent (“USDA Rural Development”), participated, represented by Giovanna Leopardi.

Summary of the Facts Presented

3. Petitioner Heidecker’s filing dated September 11, 2012 (filed September 13, 2012) is admitted into evidence, together with the testimony of Petitioner Heidecker, together with her Hearing Request dated July 22, 2012.

4. USDA Rural Development's Exhibits RX 1 through RX 5, plus Narrative, Witness & Exhibit List (filed September 26, 2012) are admitted into evidence, together with the testimony of Giovanna Leopardi.

5. Petitioner Heidecker testified credibly that she never received an application for debt settlement from USDA Rural Development. A debtor is required to apprise USDA Rural Development of address changes. Here, however, it appears that the Sheriff's sale was April 27, 2006 (*see* RX 3, p. 7); the proceeds of sale were applied to the loan on February 15, 2007 (*see* RX 3, p. 9); and the debt settlement package was mailed<sup>1</sup> on July 14, 2011 (*see* RX 3, esp. pp. 13-14), more than 4 years after the proceeds of sale were applied. Under these circumstances, I conclude that Petitioner Heidecker is not at fault in USDA Rural Development's failure to deliver the debt settlement application to her.

6. Petitioner Heidecker is responsible to support not only herself, but also two dependent children, about 8 years and 7 years old.

#### Order

7. Until the debt is repaid, Petitioner Heidecker 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).

8. USDA Rural Development will recall the debt from the U.S. Treasury for further servicing by USDA Rural Development. Thus, this case is REMANDED to USDA Rural Development to give Petitioner Heidecker the opportunity to negotiate a repayment plan with USDA Rural Development.

9. If NO agreed repayment plan between Petitioner Heidecker and USDA Rural Development happens, or there is a default in meeting repayment plan requirements, and if the debt is consequently submitted to the U.S. Treasury for Cross Servicing, Petitioner Heidecker will be entitled anew to have a hearing.

10. Repayment of the debt may occur through *offset* of Petitioner Heidecker's **income tax refunds** or other **Federal monies** payable to the order of Ms. Heidecker.<sup>2</sup>

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<sup>1</sup> It is not clear what address USDA Rural Development used.

<sup>2</sup> Petitioner Heidecker, your spouse is not obligated under the debt here. Consequently, if you file a joint income tax return and any refund taken is your spouse's, you may want to call U.S. Treasury at **1-888-826-3127** to ask how your "injured spouse" may obtain his refund back.

11. The Garnishment Proceeding and this case are DISMISSED, without prejudice to Petitioner Heidecker to request a hearing timely, should garnishment be noticed.

Copies of this “Remand to USDA Rural Development and Dismissal of Garnishment Proceeding and This Case” shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.  
this 28<sup>th</sup> day of September 2012

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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