

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: )  
)  
Linda Kaye Magee, ) [AWG]  
) Docket No. **13-0128**  
n/k/a Linda Kaye Sartin, )  
) **Remand to USDA Rural Development and**  
Petitioner ) **Dismissal of Garnishment Proceeding and This Case**

Appearances:

Linda Kaye Sartin, formerly known as Linda Kaye Magee, Petitioner, representing herself (appearing *pro se*); and

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

1. A hearing by telephone was held on February 7, 2013. Petitioner Linda Kaye Sartin, formerly known as Linda Kaye Magee (Petitioner Sartin), participated, representing herself (appearing *pro se*); and
2. Rural Development, an agency of the United States Department of Agriculture (USDA), the Respondent (“USDA Rural Development”), participated, represented by Michelle Tanner.

Summary of the Facts Presented

3. Petitioner Sartin’s Consumer Debtor Financial Statement filed February 5, 2013, plus stub showing stipend for 12/01/12 - 12/31/12; plus her Hearing Request dated November 19, 2012 with accompanying 3-page letter plus Budget Assessment; are all admitted into evidence, together with the testimony of Petitioner Sartin.

4. USDA Rural Development's Exhibits RX 1 through RX 8, plus Narrative, Witness & Exhibit List, were filed on January 3, 2013, and are admitted into evidence, together with the testimony of Michelle Tanner.

5. Petitioner Sartin owes to USDA Rural Development **\$25,976.02** (as of December 14, 2012), in repayment of a United States Department of Agriculture / Farmers Home Administration loan. The loan was originally borrowed by her mother in 1989, for a home in Mississippi. RX 1. Petitioner Sartin (then Linda Kaye Magee) assumed the loan in 2008. The balance of the loan is now unsecured ("the debt").

6. Potential Treasury collection fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$25,976.02** would increase the current balance by \$7,273.28, to \$33,249.30. See RX 8, p. 2.

7. Payments were not kept current, and the loan was accelerated for foreclosure on November 8, 2010. RX 3. The Notice of Acceleration (and of Intent to Foreclose) shows \$28,753.39 unpaid principal and \$2,203.65 unpaid interest (as of November 8, 2010). RX 3. This did not include other costs, such as unpaid insurance and unpaid real estate taxes that had to be advanced by USDA Rural Development.

8. A foreclosure sale was not held, because a short sale was completed on February 24, 2012, for \$11,188.00. RX 4, p. 2.

9. Before the amount recovered from the sale was applied to reduce the debt, the debt amount was \$37,265.86. RX 6.

\$ 28,753.39	unpaid principal
\$ 5,605.37	unpaid interest (from February 26, 2010 to February 24, 2012)
\$ 2,741.53	fees/costs (includes unpaid taxes, unpaid insurance, and other costs)
<u>\$ 165.57</u>	interest on fees/costs plus \$63.28 late charge
\$ 37,265.86	debt before short sale proceeds applied
<u>=====</u>	

RX 6 and Michelle Tanner's testimony.

10. Proceeds from the short sale (\$11,188.00) were applied to reduce the debt. RX 6. The escrow balance (\$101.84) was applied to reduce the debt. RX 6. This left **\$25,976.02** still to be paid. This is the amount that was referred to U.S. Treasury for collection in August 2012. RX 8, p. 1.

11. Since the short sale proceeds were applied to the balance, in about February 2012, no additional interest has accrued. No additional interest will accrue, which makes repaying the debt more manageable.

12. Petitioner Sartin still (as of December 14, 2012) owes the balance of **\$25,976.02** (excluding potential collection fees), and USDA Rural Development may collect that amount from her.

13. Petitioner Sartin asked during the hearing, could I have been relieved of the debt? Petitioner Sartin was sent a debt settlement application and a letter with a format like RX 7. RX 5, p. 37. Petitioner Sartin testified that she remembered getting the letter but was waiting to know if she was going to get disability. Petitioner Sartin testified that she has a number of challenges, including medical, poverty, and no motor vehicle.

14. Petitioner Sartin shall have another opportunity to negotiate with USDA Rural Development (the “debt settlement” process). Petitioner Sartin, I am enclosing for your use [if you want to use them as part of your “debt settlement” paperwork], two blank forms Consumer Debtor Financial Statement, plus a copy of the one you filed on February 5, 2013. As I mentioned to you in the hearing, section 10 on page 1 was your opportunity to list your dependents living in your household, and you left out two children. Also, the child support you receive goes in section 37 on page 4.

#### Findings, Analysis and Conclusions

15. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Sartin and USDA Rural Development; and over the subject matter (administrative wage garnishment, which requires determining whether Petitioner Sartin owes a valid debt to USDA Rural Development).

16. Petitioner Sartin owes the debt described in paragraphs 5 through 12.

17. **No refund** to Petitioner Sartin of monies already collected or collected prior to implementation of this Decision is appropriate, and no refund is authorized.

18. Repayment of the debt may occur through *offset* of Petitioner Sartin’s **income tax refunds** or other **Federal monies** payable to the order of Ms. Sartin.

19. Petitioner Sartin should have another “debt settlement” opportunity with USDA Rural Development; that opportunity should and will be restored. I have determined to REMAND this case to USDA Rural Development to begin anew the “debt settlement” process.

Order

20. Until the debt is repaid, Petitioner Sartin 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).
21. 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 Sartin the opportunity to negotiate a repayment plan with USDA Rural Development. USDA Rural Development will begin the process by sending a letter to Petitioner Sartin.
22. Please notice, Petitioner Sartin, every detail in the letter you are going to receive from USDA Rural Development, including your obligation to submit a request to the Centralized Servicing Center (part of USDA Rural Development) for a written repayment agreement. You, Petitioner Sartin, as you complete the forms and provide the requested documentation, will need to determine what to offer: total amount, as well as installments.
23. If NO agreed repayment plan between Petitioner Sartin 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 Sartin will be entitled anew to have a hearing (**not** on the issue of the validity of the debt, but only on the issue of whether she can withstand garnishment without it causing financial hardship).
24. Repayment of the debt may continue to occur through *offset* of Petitioner Sartin's **income tax refunds** or other **Federal monies** payable to the order of Ms. Sartin.
25. The Garnishment Proceeding and this case are DISMISSED, without prejudice to Petitioner Sartin 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 12<sup>th</sup> day of February 2013

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

Michelle Tanner, Appeals Coordinator  
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Enclosed to only Petitioner Sartin:  
2 blank Consumer Debtor Financial Statement forms; plus  
a copy of Petitioner Sartin's form filed February 5, 2013

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