

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0137

In re: JAVIER FUENTES,

Petitioner

**ORDER DISMISSING WAGE GARNISHMENT ACTION**

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Javier Fuentes (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development Agency (“Respondent”; “USDA-RD”); and if established, the propriety of imposing administrative wage garnishment.

On January 12, 2013, Petitioner timely requested a hearing before the Office of Administrative Law Judges (“OALJ”). By Order issued January 23, 2013, a hearing was scheduled to commence on March 12, 2013 and the parties were directed to provide information and documentation to the Hearing Clerk for the Office of Administrative Law Judges for the United States Department of Agriculture (“Hearing Clerk”). Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-10”). Petitioner filed a Consumer Debtor Financial Statement, identified as “PX-1”.

The hearing commenced as scheduled, at which time I admitted the parties’ documents to the record. Petitioner represented himself and Giovanna Leopardi of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri, represented Respondent.

On the basis of the entire record before me, I conclude that USDA-RD has failed to satisfy the burden of proving that the Petitioner owes a valid debt to the United States. The

primary basis for USDA-RD's claim is Petitioner's agreement to reimburse USDA-RD for sums paid to Petitioner's mortgage lender Wells Fargo Bank ("Lender") for any default on the loan made by the Lender to Petitioner on June 8, 2005. Because the agreement is not dated, I am unable to determine that it represented consideration to the Petitioner in advance of receiving the funds for his home purchase. In addition, the Lender paid to Petitioner a sum in settlement of claims of improper servicing of his mortgage loan, which further supports the conclusion that the guarantee paid by USDA-RD to the Lender was not properly documented.

In consideration of the above, the instant request for a hearing is dismissed.

### **ORDER**

1. The alleged debt related to payments made by USDA-RD to Lender is not valid.
2. Administrative wage garnishment is inappropriate as the debt is not valid.
3. USDA-RD or Treasury may NOT seek to collect any funds from Petitioner associated with the payment made by USDA-RD to Lender Well or its successors or assigns.
4. USDA-RD shall recall Petitioner's account from the Department of Treasury and make an adjustment consistent with this ruling.
5. USDA-RD may have a cause of action against the Lender to collect amounts improperly paid in reliance upon the Lender's inadequate documentation of the guarantee and subsequent servicing of Petitioner's account.
6. The wage garnishment action is hereby DISMISSED.

Copies of this Order shall be served upon the parties by the Hearing Clerk's Office.

So Ordered this 13<sup>th</sup> day of March, 2013 in Washington, D.C.

---

Janice K. Bullard  
Administrative Law Judge