

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0271
)	
Consuelo W. Shallcross)	
)	
Petitioner)	Decision and Order

On August 24, 2010, I held a hearing on a Petition to Dismiss the administrative wage garnishment proceeding to collect the debt allegedly owed to Respondent, USDA, Rural Development for losses it incurred under and a loan given by Respondent to Petitioner, Consuelo W. Shallcross, and James McKinney. Petitioner, Consuelo W. Shallcross, represented herself. Respondent, USDA Rural Development, was represented by Mary Kimball. Petitioner, Consuelo W. Shallcross, and Mary Kimball who testified for Respondent, were each duly sworn.

Respondent proved the existence of the debt owed by Petitioner and James McKinney for payment of the loss Respondent sustained on the loan given to them to finance the purchase of a home located at 16062 Moter Ave., Milford, VA 22514. The loan was evidenced by a Promissory Note in the amount of \$ 45,400 dated November 22, 1988 (RX-1).The note was reamortized on June 23, 1998. Loan payments were not made and a foreclosure sale was held on June 6, 2001, and USDA, Rural Development received \$41,602.85 from the sale. Prior to the sale, the amount owed to Respondent, USDA, Rural Development, was \$63,223.53 for principal, interest, and other expenses. After the sale, Petitioner owed \$21,620.68. Since the sale, \$173.70 has been collected by the U. S. Treasury Department in offsets from income tax refunds that Petitioner otherwise would

have received. The amount that is presently owed on the debt is \$21,446.98 plus potential fees to Treasury of \$6,005.15 or \$27,452.13 total.(RX-4). Petitioner has been unemployed since April of this year. Her father died on April 3, 2010 and she has suffered serious depression since that time requiring strong medication. Any salary she earns shall be subject to a 25% of her income garnishment order by the Hanover District Court for unpaid fines and court costs that she owes. At present there is no disposable income that may be subject to wage garnishment. I have concluded that the present collection of any part of the debt would cause Petitioner undue, financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11.

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 income and the pending garnishment proceeding for the unpaid loan by Respondent must therefore be dismissed.

Under these circumstances, these proceedings to garnish Petitioner's wages are hereby dismissed.

Dated:

Victor W. Palmer
Administrative Law Judge