

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0357
)	
Marilyn Nelson,)	
)	
Petitioner)	Decision and Order

On October 13, 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 a loan given by Respondent to Petitioner, Marilyn Nelson and to her husband Jeffrey Nelson. Respondent represented herself. Respondent, USDA Rural Development, was represented by Mary Kimball. Petitioner, Marilyn Nelson, and Mary Kimball who testified for Respondent, were each duly sworn.

Respondent proved the existence of the debt owed by Petitioner for payment of the loss Respondent sustained on a loan given to Petitioner and her husband to finance the purchase of a home located at Route 1 Sandpath Road, Bonifay, FL 32425. The loan was evidenced by a Promissory Note in the amount of \$53,000.00, dated April 22, 1992 (RX-1). The payments on the loan were not met and a foreclosure sale was held on July 25, 2000. USDA, Rural Development received \$45,065.14 from the sale. Prior to the sale, the amount owed to Respondent, USDA, Rural Development, was \$65,615.70 for principal, interest, and other expenses. After the sale, Petitioner owed \$20,550.56 plus pre-foreclosure fees of \$152.53. Since the sale, \$3,797.95 has been collected by the U. S. Treasury Department. The amount that is presently owed on the debt is \$16,905.14 plus potential fees to Treasury of \$5,071.54, or \$21,976.68 total (RX-5).

Petitioner and Jeffrey Nelson divorced in 2002; and she is employed as an office assistant by medical professionals making appointments and billing clients. Her work hours have recently been reduced. Petitioner earns [REDACTED] per month. Petitioner has filed and testified to the accuracy of a Consumer Debtor Financial Statement that shows her monthly family expenses to be approximately [REDACTED]. Therefore, there is no disposable income that may presently be subject to wage garnishment. I have concluded that the collection of any part of the debt during the next six (6) months 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 would suffer undue financial hardship if any amount of money is garnished from her disposable income at any time during the next six (6) months. During that time, Mrs. Nelson shall contact Treasury to discuss a settlement plan to pay the debt.

Under these circumstances, the proceedings to garnish Petitioner's wages are suspended and may not be resumed for six (6) months from the date of this Order.

Dated:

Victor W. Palmer
Administrative Law Judge