

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0344
)	
Angelia Reece O’Neal,)	
)	
Petitioner)	Decision and Order

On October 21, 2010, I held a hearing by telephone 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 it gave to Petitioner, Angelia Reece O’Neal, and her former husband, Samuel Reece. Petitioner was represented by her attorney, David W. Davis and Respondent, USDA Rural Development, was represented by Eugene Elkins and Mary Kimball. Petitioner, Angelia Reece O’Neal, 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 losses Respondent sustained on the loan given to Petitioner, Angelia Reece O’Neal, and her former husband, Samuel Reece to purchase a home located at 14432 Elm, OK 74033. The loan was evidenced by a Promissory Note in the amount of \$42,200 dated October 30, 1986 (RX-1). Loan payments were not made and a short sale was held on June 23, 2003. USDA, Rural Development received \$39,588.43 from the sale. Prior to the sale, the amount owed on the loan to Respondent, USDA, Rural Development, was \$70,414.77 for principal, interest, and other expenses. After the sale, Petitioner and her former husband owed \$30,826.34 minus \$187.11 credited for escrow. Since the sale, \$3,586.65 has been collected by the U. S. Treasury Department. The amount that is

presently owed on the debt is \$26,722.53 plus potential fees to Treasury of \$7,482.31, or \$34,204.84 total (RX-5). Petitioner is divorced from Samuel Reece and is presently unemployed drawing unemployment insurance. At present there is no disposable income that may be subject to wage garnishment.

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 disposable income. She shall discuss with her legal counsel on whether she should attempt to settle the debt by obtaining a loan for a smaller amount than the debt presently claimed. At any rate, she is unemployed and her wages may not be garnished until 12 months after she is again becomes employed. Accordingly, federal administrative garnishment proceedings may not be proceed at this time and her Petition for dismissal of such proceeding is hereby granted.

It is hereby so ordered.

Dated:

Victor W. Palmer
Administrative Law Judge