

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 10-0343
Joshua Judice)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held on October 27 & November 8, 2010. Joshua Judice, also known as Joshua J. Judice, the Petitioner (“Petitioner Judice”), represented himself (appeared *pro se*). Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Mary E. Kimball.

2. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

3. I encourage **Petitioner Judice and the collection agency** to work together to **establish a repayment schedule** rather than immediately proceeding with garnishment, even though this Decision authorizes garnishment, up to 15% of Petitioner Judice’s disposable pay. Petitioner Judice, obviously, will have to make himself available to the collection agency if he wants to negotiate. *See* paragraphs 9 and 10.

Summary of the Facts Presented

4. Petitioner Judice owes to USDA Rural Development a balance of **\$33,709.73**, in repayment of a United States Department of Agriculture / Rural Housing Service **Guarantee** (*see* RX-1, esp. p. 2) for a loan made in 2004, the balance of which is now

unsecured (“the debt”). Petitioner Judice borrowed to buy a home in Louisiana. *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed August 23, 2010), which are admitted into evidence, together with the testimony of Mary Kimball.

5. This *Guarantee* establishes an **independent** obligation of Petitioner Judice, “I certify and acknowledge that if the Agency pays a loss claim on the requested loan to the lender, I will reimburse the Agency for that amount. If I do not, the Agency will use all remedies available to it, including those under the Debt Collection Improvement Act, to recover on the Federal debt directly from me. The Agency’s right to collect is independent of the lender’s right to collect under the guaranteed note and will not be affected by any release by the lender of my obligation to repay the loan. Any Agency collection under this paragraph will not be shared with the lender.” RX-1, p. 2.

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$33,709.73**, would increase the current balance by \$10,112.91, to \$43,822.64. RX-5.

7. Petitioner Judice’s “Consumer Debtor Financial Statement” filed November 2, 2010, is admitted into evidence, together with the testimony of Petitioner Judice. Petitioner Judice described his financial difficulties, including being subject to a 25% garnishment that would be finished in a couple more weeks. He works as a sheet metal mechanic. I calculate Petitioner Judice’s disposable pay (within the meaning of 31 C.F.R. § 285.11) as [REDACTED] per month (gross pay minus Federal, State, Social Security, and Medicare withholding).

8. Petitioner Judice and his wife support 3 children, 2 boys and a girl; his wife and the children live with his mother-in-law, and he lives with his father: they cannot afford a place of their own. Petitioner Judice’s evidence proves that he pays about [REDACTED] per month for one child’s day care and about [REDACTED] per month for two of the children’s private school tuition. He testified that he helps pay what he can of his wife’s bills and for food. Petitioner Judice’s living expenses are reasonable. When Petitioner Judice’s reasonable living expenses, including what he pays to support his wife and children, are subtracted from his disposable pay, Petitioner Judice’s disposable pay supports garnishment, up to 15% of Petitioner Judice’s disposable pay (within the meaning of 31 C.F.R. § 285.11). The evidence does not show that Petitioner Judice has any circumstances of financial hardship (within the meaning of 31 C.F.R. § 285.11).

9. Petitioner Judice is responsible and willing and able to negotiate the repayment of the debt with Treasury’s collection agency.

Discussion

10. I encourage **Petitioner Judice and the collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Judice, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Judice, you may choose to offer to compromise the debt for an amount you are able to pay, to settle the claim for less.

Findings, Analysis and Conclusions

11. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Judice and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

12. Petitioner Judice owes the debt described in paragraphs 4, 5 and 6.

13. Garnishment is authorized, up to 15% of Petitioner Judice's disposable pay. 31 C.F.R. § 285.11.

14. Repayment of the debt may also occur through *offset* of Petitioner Judice's **income tax refunds** or other **Federal monies** payable to the order of Mr. Judice.

Order

15. Until the debt is fully paid, Petitioner Judice shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in his mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

16. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Judice's disposable pay.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 18th day of November 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Avenue, SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776