

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0351

In re: Reginald Ware, Sr.,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Reginald Ware, Sr. for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On August 30, 2010 a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing on November 3, 2010. At Mr. Ware's request, the hearing was postponed until November 22, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on September 27, 2010. Reginald Ware, Sr. filed his documentation with the Hearing Clerk on October 14, 2010. In his request for hearing, Mr. Ware indicated that he did not get the letters advising him of the deficiency and both with his request and at the hearing requested that he be allowed to make payments on the debt.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On October 14, 1993, Reginald Ware, Sr. and Sharon Ware, then his wife, received a home mortgage loan in the amount of \$49,000.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in New Boston, Texas . RX-1, 2.
2. The property was sold at a foreclosure sale on July 1, 2003 with proceeds realized from that sale in the amount of \$38,702.00, leaving a balance due of \$28,260.06. RX-4.
3. Treasury offsets totaling \$8,963.58 exclusive of Treasury fees have been received. RX-4.
4. The remaining unpaid debt is in the amount of \$19,296.48 exclusive of potential Treasury fees. RX-5.
5. The Petitioner's current monthly expenses equal or exceed his monthly income and he is under a financial hardship at this time.

Conclusions of Law

1. Reginald Ware is indebted to USDA Rural Development in the amount of \$19,296.48 exclusive of potential Treasury fees for the mortgage loan extended to him.
2. By virtue of the Petitioner's financial hardship, garnishment is not warranted at this time.
3. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Reginald Ware, Sr. may **NOT** be subjected to administrative wage garnishment at this time. The debt shall remain at Treasury for any appropriate action short of garnishment, to include entering into a payment plan or debt settlement. It is further **ORDERED** that the Petitioner's financial condition be reviewed at the end of six months at which time garnishment proceedings may be re-instituted if other arrangements have not been made.

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

Peter M. Davenport
Chief Administrative Law Judge

Date: November 22, 2010

Copies to: Reginald Ware, Sr.
Mary Kimball
Dale Theurer

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