

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 10-0433**
Mayela Segovia,)
n/k/a Mayela Duque)
)
Petitioner) **Decision and Order**

1. The hearing by telephone was held on November 19, 2010. Ms. Mayela Duque, formerly known as Mayela Segovia, the Petitioner (“Petitioner Duque”), participated, representing herself (appearing *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

Summary of the Facts Presented

3. Petitioner Duque owes to USDA Rural Development, formerly USDA Farmers Home Administration, a balance of **\$18,613.38** in repayment of a loan that she borrowed in 1994. Petitioner Duque borrowed to buy a home in Texas, and the **\$18,613.38** balance is now unsecured (“the debt”). See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed in October 2010), which are admitted into evidence, together with the testimony of Mary Kimball.

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$18,613.38** would increase the current balance by \$5,211.75, to \$23,825.13. *See* USDA Rural Development Exhibits, esp. RX-5.
5. Admitted into evidence are the testimony of Petitioner Duque, and Petitioner Duque's Consumer Debtor Financial Statement (filed in November 2010), and her Hearing Request documents and statements.
6. The amount borrowed from USDA Farmers Home Administration was \$48,280.00 in 1994. By the time of the foreclosure sale in 1999, that debt had grown:
- | | |
|--------------|---------------------------------|
| \$ 48,372.78 | Principal Balance prior to sale |
| \$ 10,888.51 | Interest Balance prior to sale |
| \$ 5,658.79 | Fee Balance prior to sale |
| \$ 64,920.08 | Total Amount Due prior to sale |

From the foreclosure sale, \$45,000.00 was applied toward paying the Amount Due.

RX-4.

7. Petitioner Duque testified that she and her husband (who is **not** responsible to pay "the debt") support themselves and the 3 children at home. They live with her husband's mother. Petitioner Duque testified that she works as a provider for her 84-year old grandmother, 22 hours per week and is paid [REDACTED] per hour, gross (minimum wage is \$7.25 per hour). I calculate Petitioner Duque's gross pay to be [REDACTED] per month; and her disposable pay to be [REDACTED] per month. Petitioner Duque pays [REDACTED] per month to the Internal Revenue Service for taxes owed for 2005-2006.
8. Petitioner Duque's disposable pay does not support garnishment, which would create hardship. 31 C.F.R. § 285.11.
9. Petitioner Duque is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

10. Through November 30, 2011, NO garnishment is authorized. *See* paragraphs 7 and 8. I encourage **Petitioner Duque and the collection agency to negotiate promptly** the disposition of the debt. Petitioner Duque, this will require **you** to telephone the collection agency after you receive this Decision. Petitioner Duque, you may choose to offer to compromise the debt for an amount you are able to pay, to settle the claim for less. The toll-free number for you to call is **1-888-826-3127**.

Findings, Analysis and Conclusions

11. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Duque and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
12. Petitioner Duque owes the debt described in paragraphs 3 and 4.
13. **Through November 30, 2011, NO garnishment is authorized.** 31 C.F.R. § 285.11.
14. This Decision does not prevent repayment of the debt through *offset* of Petitioner Duque's **income tax refunds** or other **Federal monies** payable to the order of Ms. Duque.

Order

15. Until the debt is repaid, Petitioner Duque shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her 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 **NOT** authorized to proceed with garnishment **through November 30, 2011**.

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

Done at Washington, D.C.
this 22nd day of November 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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