

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0399
)	
Truman Vanauken,)	
)	
Petitioner)	Decision and Order

Pursuant to a Hearing Notice, I held a hearing by telephone, on December 21, 2010, at 10:45 AM Eastern Time, in consideration of a Petition seeking to dispute Petitioner's obligation to pay a debt that Petitioner incurred under an assumption of a single family mortgage loan and an additional loan that was given to Petitioner, Truman Vanauken, and to his former wife, Martha Vanauken, by Respondent, USDA, Rural Development. The loans were made to facilitate the purchase, on August 13, 1998, of a primary residence at 1022 LaJunta, Colorado. However the loans fell into default which resulted in a foreclosure sale on May 28, 2003. Despite the sale and subsequent offsets from Petitioner's income tax refunds, the loans have not been fully repaid. Respondent has initiated administrative garnishment of Petitioner's wages for the nonpayment of the amount still owed.

Petitioner and Mary Kimball, representing Respondent, participated in the hearing and were sworn. Petitioner was instructed by the Hearing Notice to file: 1. completed forms respecting his current employment, general financial information, assets and liabilities, and monthly income and expenses; 2. a narrative of events or reasons concerning the existence of the alleged debt and his ability to repay all or part of it; 3. supporting exhibits with a list of the exhibits and a list of witnesses who would testify in

support of his petition.. He filed such information that shows he works two jobs as a maintenance man and cook for McDonald's and as a paper carrier for a local newspaper for which he earns monthly incomes of [REDACTED] and [REDACTED] or \$ [REDACTED] total. Petitioner and Martha divorced in February, 2000. She was awarded the house and he was ordered to pay child support for their children who are disabled. Petitioner now resides with a girl friend, a step child, and a 14 month old child born of their relationship. His monthly expenses are: rent-[REDACTED]0; child support [REDACTED] car payments-[REDACTED]; gasoline-[REDACTED] electricity-\$128; natural gas-\$67; food-\$300; cable TV-\$114; medical-\$52; clothing-\$34; trash removal-\$7.50; cell phone-\$39; miscellaneous-\$70. Total monthly expenses are \$1,615.47. The monthly expenses exceed his monthly net income.

Respondent's representative, Mary Kimball, Accountant for the New Initiatives Branch, USDA Rural Development, filed supporting documents and gave testimony showing that the debt owed to it by Petitioner has a present balance of \$13,492.64 plus potential fees of \$3,777.94 that are being assessed by Treasury for its collection efforts.

Under these circumstances, there is no present disposable monthly income available for garnishment and the proceedings to garnish Petitioner's wages are hereby suspended and shall not be resumed for one (1) year from the date of this Order.

Dated: _____

Victor W. Palmer
Administrative Law Judge