

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 10-0345**
Britain J. Reeves,)
)
Petitioner) **Decision and Order**

1. The hearing by telephone was held on October 27, 2010. Mr. Britain J. Reeves, the Petitioner (“Petitioner Reeves”), participated, representing himself (appearing *pro se*).
2. 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. 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
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Summary of the Facts Presented

3. Petitioner Reeves owes to USDA Rural Development **\$18,164.43** in repayment of a loan balance from his mother that he assumed in 1999. The loan was from the United States Department of Agriculture Farmers Home Administration, now known as USDA Rural Development. Petitioner Reeves borrowed to provide the family home in Texas for himself and his siblings. The **\$18,164.43** balance is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed September 2, 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 **\$18,164.43** would increase the current balance by \$5,086.04, to \$23,250.47. *See* USDA Rural Development Exhibits, esp. RX 5.

5. The loan balance Petitioner Reeves assumed in 1999 from USDA Rural Development was about \$35,049.66. By the time of the short sale in May 2003, that debt had grown to \$50,003.74:

\$ 37,181.53	Principal Balance prior to short sale
\$ 8,496.76	Interest Balance prior to short sale
<u>\$ 4,325.45</u>	Fee Balance prior to short sale
\$ 50,003.74	Total Amount Due prior to short sale
=====	
- <u>\$ 28,819.98</u>	Proceeds from short sale
\$ 21,183.76	Unpaid in 2003

RX 4, p. 1

So the short sale left \$21,183.76 unpaid in 2003. Another \$3,019.33 applied to the debt since then (Treasury *offsets* and insurance refund), leaves **\$18,164.43** unpaid now (excluding the potential remaining collection fees). *See* RX 4, p. 2.

6. Petitioner Reeves's testimony and his Hearing Request are admitted into evidence. No pay stub or Consumer Debtor Financial Statement from Petitioner Reeves has been filed. I cannot determine whether his disposable pay supports garnishment without creating hardship. 31 C.F.R. § 285.11. I cannot calculate Petitioner Reeves's disposable pay (after subtracting Federal income tax, social security, Medicare, health insurance, and any other "eligible" withholding from his gross pay), because there is no evidence to use for such calculations. I cannot calculate Petitioner Reeves's current reasonable and necessary living expenses. Petitioner Reeves may be unemployed.

7. Petitioner Reeves is responsible and willing and able to negotiate the repayment of the debt with Treasury's collection agency.

Discussion

8. Through April 30, 2011, NO garnishment is authorized. *See* paragraph 6. Thereafter, garnishment is authorized, up to 15% of Petitioner Reeves's disposable pay. I encourage **Petitioner Reeves and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Reeves, this will require **you** to telephone the collection

agency after you receive this Decision. Petitioner Reeves, you may choose to offer to the collection agency 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

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

10. Petitioner Reeves owes the debt described in paragraphs 3, 4 and 5.

11. **Through April 30, 2011, NO garnishment is authorized.** Thereafter, garnishment is authorized, up to 15% of Petitioner Reeves's disposable pay. 31 C.F.R. § 285.11.

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

Order

13. Until the debt is repaid, Petitioner Reeves 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).

14. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment **through April 30, 2011**. Thereafter, USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Reeves's disposable pay. 31 C.F.R. § 285.11.

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

Done at Washington, D.C.
this 11th day of January 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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