

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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| In re: |) | AWG Docket No. 11-0135 |
| |) | |
| Jason Holley, |) | |
| |) | |
| Petitioner |) | Decision and Order |

On March 29, 2011, at 11:00 AM EDT, I held a hearing on a Petition to Dismiss the administrative wage garnishment proceeding to collect the debt allegedly owed to Respondent, USDA, Rural Development for losses it incurred under a mortgage USDA gave to Petitioner, Jason Holley and his former wife, Jennifer Holley. Petitioner represented himself and USDA Rural Development was represented by Mary Kimball. Petitioner and Mary Kimball were each duly sworn.

Respondent sustained financial loss on the loan given to Petitioner and his former wife to finance their purchase of a home at 303 Independence Drive, Milton, FL 32570. The loan, dated April 27, 1994, was in the amount of \$42,500.00. The payments on the loans were not met and a foreclosure sale was held on May 22, 2000. The house sold for \$27,500.00. Respondent received \$26, 791. 84 after the deduction of selling expenses. \$48,982.52 was still owed to USDA, Rural Development for principal, accrued interest, unpaid taxes and other expenses. Since the sale, \$9,638.70 has been collected by the United States Treasury Department. The amount that is presently owed on the debt is \$12,551.98 plus potential fees to Treasury of \$3,514.55, or \$16,066.53 total.

Petitioner and Jennifer Holley divorced, in 1999, prior to the foreclosure sale where Jennifer and their one chil, a son, resided. At present the son resides with the

Petitioner and his new wife. Petitioner is employed in construction work by Spence Brothers Construction Company. He had worked there for many years until laid off due to the downturn in the company. He was just reemployed by Spence Brothers one year and one month ago and is paid wages on a weekly basis that presently comes to [REDACTED] per month gross, or [REDACTED] per month net. His monthly household expenses are: rent-[REDACTED]; gasoline-[REDACTED]; electric-[REDACTED] food-[REDACTED] cable TV-[REDACTED] medical-[REDACTED]; miscellaneous-[REDACTED] or [REDACTED] total. I have concluded that the garnishment of any part of Petitioner's weekly paychecks during the next six (6) months would cause Petitioner undue financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11.

USDA, Rural Development has met its burden under 31 C.F.R. §285.11(f)(8) that governs administrative wage garnishment hearings, and has proved the existence and the amount of the debt owed by the Petitioner. On the other hand, Petitioner showed that he would suffer undue financial hardship if any amount of money is garnished from his disposable income at any time during the next six (6) months. During that time, Mr. Holley should undertake to contact Treasury to discuss a settlement plan to pay the debt.

Under these circumstances, the proceedings to garnish Petitioner's wages are suspended and may not be resumed for six (6) months from the date of this Order.

Dated:

Victor W. Palmer
Administrative Law Judge