

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 11-0162
)	
Billy Gates,)	
)	
)	
Petitioner)	Decision And Order

Pursuant to a Hearing Notice, I held a hearing in this proceeding by telephone, on April 27, 2011, at 11:00 AM Eastern Time. Petitioner, Billy Gates, and Respondent, United States Department of Agriculture, Rural Development (USDA-RD), through its representative, Mary E. Kimball, participated and were sworn. USDA- RD introduced documents pertaining to a home mortgage it gave to Petitioner and his since deceased wife, Annette Gates. Mr. and Mrs Gates, on June 5,1986, signed a promissory note and a Deed of Trust for a \$40,000.00 home mortgage loan.

The mortgage loan was not paid as required, and on January 7, 2002, the house that it was used to purchase, was sold at a foreclosure sale in which USDA-RD received \$16,185.00 when \$34,438.00 was owed by Mr. Gates on the principal and accrued interest, plus various expenses associated with the foreclosure sale. Since then, Treasury has collected \$10,200.23 through offsets against federal income tax refunds otherwise due to Mr. Gates. At present, \$8,380.77 is owed on the debt plus “Remaining potential fees” of \$2,514.23, or \$10,895.00 total.

Mr. Gates testified that his wife has died and that he is presently employed as a tractor driver by a county government agency that pays him a net salary of [REDACTED]0 every

two weeks. From his monthly net income of [REDACTED] he pays monthly expenses of: [REDACTED]-rent; [REDACTED] electricity; [REDACTED]-gas; and [REDACTED] gasoline.

Under these circumstances, I have concluded that administrative garnishment of any part of Mr. Gallagher's wages "would cause a financial hardship to the debtor" within the meaning of the controlling regulation (31 CFR § 285.11(f)(8) (ii)). The evidence shows that Petitioner presently has no monthly disposable income. Accordingly, there is no disposable income that may be administratively garnished and therefore administrative wage garnishment may not be pursued.

Order

The relief sought in the petition is hereby granted, and the pending administrative wage garnishment to collect money from Petitioner's disposable pay to satisfy a nontax debt asserted by the Respondent, USDA-RD is hereby barred and dismissed.

This matter is stricken from the active docket.

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

Dated: _____

Victor W. Palmer
Administrative Law Judge