

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 11-0184
)	
Latausha Maye,)	
)	
Petitioner)	Decision and Order

On May 18, 2011, at 11:00 AM, EDT, I held a hearing on a Petition to Dismiss an administrative wage garnishment proceeding to collect a debt allegedly owed to Respondent, USDA, Rural Development, for losses it incurred under a mortgage loan it gave to Petitioner, Latausha Maye, and her husband, Corey Maye, to purchase a house. Petitioner represented herself, and USDA Rural Development was represented by Mary Kimball. Petitioner and Mary Kimball were each duly sworn. Various exhibits were offered by Ms. Kimball that were received in evidence (RX-1 through RX-7).

Respondent sustained financial loss on the mortgage loan it gave to Petitioner and her husband to purchase a house located at 863 May Road, Greenville, AL 36037. The loan, dated June 24, 1998, was in the amount of \$37,375.00 (RX-1 and RX-2). The payments on the mortgage were not met and a foreclosure sale was held on April 11, 2001. After selling expenses, USDA received \$16,671.00 from the sale. Prior to the sale, \$40,335.02 was owed by the Petitioner and her husband to USDA for principal, accrued interest and fees. Since the sale, USDA has received \$2,108.54 from the United States

Treasury Department (RX-5). The amount that is presently owed on the debt is \$20,820.48 plus potential fees to Treasury of \$6,246.14 or \$27,066.62 total (RX-6).

Petitioner is employed by Hwashin-America Corp. as a factory assembler of auto parts and presently receives [REDACTED] an hour or [REDACTED] bi-weekly net. Her husband is also employed. They have three minor children. Petitioner and her husband have an arrangement by which they each pay various parts of their joint monthly household expenses. She usually pays: gasoline-[REDACTED]; baby sitter-[REDACTED] and food-[REDACTED] or [REDACTED] total. Petitioner and her husband intend to file a petition to be declared bankrupt and shall do so upon saving up the amount of a quoted attorney's fee. I have concluded that the garnishment of any part of Petitioner's bi-weekly paychecks during the next sixty (60) days would cause Petitioner undue financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11. I have also concluded that upon the expiration of sixty (60) days, if a bankruptcy petition has not by then been filed, no more than [REDACTED] may be garnished from the disposable income that she realizes from each of her bi-weekly pay checks.

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 has shown that she would suffer undue financial hardship if any amount of money is garnished from her disposable income at any time during the next sixty (60) days, and that, after the expiration of sixty (60) days, if a bankruptcy petition has not by then been filed, no more than [REDACTED] may be garnished from the disposable income she receives from her bi-weekly pay checks.

Under these circumstances, the proceedings to garnish Petitioner's wages are suspended and may not be resumed for sixty (60) days from the date of this Order. Thereafter, in the absence of bankruptcy proceedings, no more than [REDACTED] may then be garnished from the disposable income she receives from her bi-weekly pay checks.

Dated:

Victor W. Palmer
Administrative Law Judge