

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 11-0170
)	
Tina Fooshee-Perry)	
)	
Petitioner)	Decision and Order

Pursuant to a Hearing Notice, I held a hearing by telephone, on June 7, 2011, at 10:30 AM Eastern Time, in consideration of a Petition seeking to dispute Petitioner's obligation to pay the full amount of a debt that Petitioner allegedly incurred under a USDA loan covering a single family mortgage that Petitioner, Tina Fooshey-Perry, and Timothy Fooshee-Perry had assumed. The evidence showed the couple assumed a \$30,000.00 USDA loan, on September 24, 1992, to acquire a home in Kingsridge, Texas. A foreclosure sale was held on March 3, 1998, after which \$7,418.99 was still owed to Respondent, USDA. Since then, USDA has received \$2,087.50 from The United States Department of Treasury. The remaining debt is \$5,331.49 plus fees to Treasury of \$1,492.82 or \$6,824.31 total. Respondent has initiated administrative garnishment of Petitioner's wages for the nonpayment of the amount still owed.

Petitioner did not participate in the hearing. Petitioner was instructed by the Hearing Notice to file: 1. completed forms respecting her 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 her 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 her petition. She was further instructed to contact my secretary, Ms. Marilyn Kennedy, and give Ms. Kennedy a telephone number where Petitioner could be reached at the time of the scheduled hearing. Petitioner did not telephone my secretary so as to participate in the scheduled hearing and the telephone number listed in the Petition has been disconnected. Petitioner also failed to comply with the other instructions and filed nothing in support of her assertion that she does not owe the full amount of the debt that is the subject of the wage garnishment proceeding.

Respondent participated in the hearing through its representative, Mary Kimball, Accountant for the New Initiatives Branch, USDA Rural Development who provided evidence proving the existence of the debt owed to it by Petitioner and that a balance of \$5,331.49 plus fees to Treasury of \$1,492.82, or \$6,824.31 total, is currently owed on the loan that is the subject of the wage garnishment proceedings.

Under 31 C.F.R. § 285.11 (f)(2), a hearing on a Petition challenging wage garnishment may be, at the agency's option, either oral or written. An oral hearing may be conducted by telephone conference and is only required when the issues in dispute cannot be resolved by review of the documentary evidence 31 C.F.R. § 285.11 (f)(3).

An oral hearing was scheduled to hear and decide Petitioner's concerns. Petitioner never advised the Hearing Clerk, the Respondent, or this office how she could be personally contacted on the day of the scheduled hearing. Reasonable efforts were made to include her in the scheduled hearing, but were to no avail. Accordingly, the petition is being dismissed for Petitioner's failure to participate and present evidence or arguments

to refute the documents provided by Respondent showing the existence of Petitioner's obligation to pay the debt still owed to USDA-Rural Development.

USDA- Rural Development has proved the existence of the debt owed to it by Petitioner and the present balance of the loan. The Petitioner has not provided evidence refuting the existence of the loan or its present balance. Petitioner has also failed to provide any evidence showing, within the meaning and intent of the provisions of 31 C.F.R. § 285.11, that collection of the loan balance by administrative wage garnishment would cause Petitioner a financial hardship, or that collection of the debt may not be pursued due to operation of law. Therefore, the Petition is dismissed and the proceedings to garnish Petitioner's wages may be resumed provided the amount of wages garnished does not exceed 15% of her disposable income.

Petitioner is advised, however, that if she telephones the private agency engaged by Treasury to pursue the debt's collection, she might be able to settle the debt at a lower amount with lower payments.

Dated: _____

Victor W. Palmer
Administrative Law Judge