

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 11-0176**
Jessie L. Flowers,)
)
Petitioner) **Decision and Order**

1. The hearing by telephone was begun on June 15, 2011. Mr. Jessie L. Flowers, the Petitioner (“Petitioner Flowers”), participated, representing himself (appearing *pro se*). The hearing was scheduled to resume on July 20, 2011, but that is CANCELED, because the documents Petitioner Flowers filed on July 12, 2011 are sufficient without more testimony.
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 Flowers owes to USDA Rural Development **\$31,314.98** in repayment of a loan made in 1990 by the United States Department of Agriculture Farmers Home Administration, now known as USDA Rural Development. Petitioner Flowers borrowed to buy a home in Mississippi. The **\$31,314.98** balance is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed April 28, 2011), 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 **\$31,314.98** would increase the current balance by \$9,394.49, to \$40,709.47. *See* USDA Rural Development Exhibits, esp. RX 8.

5. The loan Petitioner Flowers borrowed in 1990 from USDA Rural Development was \$38,500.00. By the time of the foreclosure sale in 1997, that debt had grown to \$54,097.98:

\$ 38,426.37	Principal Balance prior to foreclosure sale
\$ 14,629.39	Interest Balance prior to foreclosure sale
<u>\$ 1,042.22</u>	Fee Balance prior to foreclosure sale
\$ 54,097.98	Total Amount Due prior to foreclosure sale
=====	
- <u>\$ 22,500.00</u>	Proceeds from foreclosure sale
\$ 31,597.98	Unpaid in 1997
=====	

RX 7.

So the foreclosure sale left \$31,597.98 unpaid in 1997. Another \$ 283.00 applied to the debt in 2008 (Treasury *offset*), leaves **\$31,314.98** unpaid now (excluding the potential remaining collection fees). *See* RX 7.

6. Petitioner Flowers' testimony and his Hearing Request are admitted into evidence, together with the documents he filed on July 12, 2011, including his Consumer Debtor Financial Statement, the letter dated July 12, 2011 from Charles K. Hill, M.D., and Form SSA-1099-SM, showing Petitioner Flowers' 2010 Benefits. Petitioner Flowers has no disposable pay; he testified that his medical condition prevents him from working. He testified that he had been trying to work part-time but his doctor stopped him in January 2011. Petitioner Flowers' current reasonable and necessary living expenses exceed his [REDACTED] per month Social Security disability benefits. Even if Petitioner Flowers were able to do some part-time work, any garnishment would create hardship. 31 C.F.R. § 285.11.

7. Petitioner Flowers, you may want to negotiate the disposition of the debt with Treasury's collection agency. *See* paragraph 8.

Discussion

8. NO garnishment is authorized. *See* paragraph 6. I encourage **Petitioner Flowers and the collection agency to negotiate promptly** the disposition of the debt. Petitioner Flowers, this will require **you** to telephone the collection agency after you receive this Decision. Petitioner Flowers, you may request a ***financial hardship discharge***. You may

want to explain your health problems, including the residuals from the aneurysms in your head and two craniotomies, and to obtain your physicians' statements for the collection agency. You may want to provide them a copy of the letter dated July 12, 2011 from Charles K. Hill, M.D., and another letter from your eye doctor. 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 Flowers and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

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

11. **NO garnishment is authorized.** Petitioner Flowers cannot withstand garnishment in any amount without creating financial hardship. 31 C.F.R. § 285.11. Petitioner Flowers has no earnings. His sole income is social security disability payments. Even if Petitioner Flowers were able to supplement his disability payments with some part-time earnings, no garnishment would be authorized. 31 C.F.R. § 285.11.

12. This Decision does not prevent repayment of the debt through *offset* of Petitioner Flowers's **income tax refunds** or other **Federal monies** payable to the order of Mr. Flowers.

Order

13. Until the debt is repaid, Petitioner Flowers 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. 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 15th day of July 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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