

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 11-0331
)	
Rachel Ainsworth,)	
formerly, Rachel Nunez,)	
)	
Petitioner)	Decision and Order

Pursuant to a Hearing Notice, I held a hearing by telephone, on August 30, 2011, at 11:00 AM Eastern Time, in consideration of a Petition seeking to dispute Petitioner’s present obligation to pay a debt that Petitioner and her former husband, Emilio Nunez, incurred on April 24, 1986, when they obtained a single family mortgage loan in the amount of \$38,400.00 from USDA, and signed a promissory note and a deed of trust on property at 1306 Tracey St., George West, Texas (RX-1, and RX-2). Petitioner and Mr. Nunez divorced as per a Divorce Decree rendered in open court on September 20, 1995 and signed on May 13, 1996 in Cause L-95-0062CV-C by the 343rd District Court for Live Oak County, Texas. Under the terms of the decree, Emilio Nunez was awarded the house and ordered to pay the mortgage loan. The decree was recorded at Vol. 58, Page 182 Live Oak County District Court Minutes. However, the loan was not paid, and a foreclosure sale of the mortgaged house was held on July 6, 1999. USDA received \$20,5000.00 from the sale proceeds. Prior to the application of the sale proceeds,

\$46,729.97 in principal, interest and fees was owed on the debt. Since the sale, an additional \$5,520.64 of the debt has been collected by Treasury through \$375.16 monthly garnishments from the salary Petitioner receives. The present debt is \$20,254.17 plus \$5,671.17 in fees to Treasury, or \$25,925.34 total (RX-7). At the hearing, Petitioner was represented by R. Bellows, Attorney at Law, 601 C. N. Harborth Avenue, P.O. Box 1047, Three Rivers, Texas 78071. Mary Kimball, represented Respondent. Both Petitioner and Ms. Kimball were sworn.

Petitioner is married and has three adult children by her first marriage to Mr. Nunez. She is employed by the Texas Department of Justice as a Correctional Officer earning a gross monthly income of [REDACTED] plus hazardous duty pay of [REDACTED], or [REDACTED] net after the deduction of withholding taxes. Her monthly expenses are: rent/mortgage payments-[REDACTED]; car payments-[REDACTED]; electricity-[REDACTED] cable TV-[REDACTED]; medical expenses-[REDACTED] loans-[REDACTED]; University costs-[REDACTED]; life insurance premium-[REDACTED] and other expenses-[REDACTED]. Total monthly expenses are: [REDACTED]. Respondent's representative, Mary Kimball, Accountant for the New Initiatives Branch, USDA Rural Development, filed supporting documents and gave testimony showing that the debt owed to it has a present balance of \$20,254.17 plus \$5,671.17 in fees to Treasury, or \$25,925.34 total.

Under these circumstances, there are issues to be resolved respecting Mr. Nunez's ultimate liability for the debt and/or the establishment of an equitable payment plan with Treasury. The garnishment of Petitioner's wages are hereby suspended and shall not be resumed for six (6) months from the date of this Order.

Dated: _____

Victor W. Palmer
Administrative Law Judge