

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	[AWG]
)	Docket No. 11-0332
Valerie Ridgeway,)	
)	
Petitioner)	Decision and Order

1. The hearing was held, by telephone, on October 26, 2011. Ms. Valerie J. Ridgeway, the Petitioner (“Petitioner Ridgeway”), participated, represented by Michael J. Ridgeway, Esq.
2. The United States Forest Service, an agency of the United States Department of Agriculture (USDA), is the Respondent (“US Forest Service”), and was represented by Nathaniel (“Nate”) Shunk and Steven Casey, each of whom is a US Forest Service employee at the Albuquerque Service Center.

Summary of the Facts Presented

3. Admitted into evidence, together with Petitioner Ridgeway’s testimony, are Petitioner Ridgeway’s Wage Stubs (“PX-9”, filed October 25, 2011); plus Petitioner Ridgeway’s numerous exhibits and Exhibit List & Submission of Narrative & Financials (filed September 1, 2, 7 and 8, 2011); plus Petitioner Ridgeway’s Hearing Request dated July 11, 2011 and stamped RECEIVED July 17, 2011, plus all documents accompanying the Hearing Request (filed August 1, 2011).
4. Admitted into evidence, together with the testimony of Nathaniel (“Nate”) Shunk and Steven Casey, are the documents filed September 13, 2011, which were sent by email simultaneously to the Hearing Clerk and to Michael J. Ridgeway, Esq.
5. The validity of the debt and the amount of the debt are not addressed in this Decision. The Hearing Officer’s decision was the final agency determination; consequently, I do not address the issues decided by the Hearing Officer. *See* the letter dated February 17, 2009, over the signature of John Hernandez, Hearing Officer, a copy of which was filed in this case on September 13, 2011.

6. Petitioner Ridgeway stated that she had not seen the Hearing Officer's decision until it was provided to her in this proceeding. Nevertheless, I find that the US Forest Service followed procedures in serving her with the Hearing Officer's decision sufficient to give her notice of that decision. The practice of the US Forest Service, if a certified mailing was not claimed, was to re-send the document to the same address by ordinary mail. The Hearing Officer's decision was sent to the address Petitioner Ridgeway had provided to the US Forest Service, which she testified is the only reliable address she has, the P.O. Box which she has had since 2005 and still has to this day.

7. Petitioner Ridgeway's disposable pay (within the meaning of 31 C.F.R. § 285.11) **does not currently support garnishment in any amount.** The US Forest Service and those collecting on its behalf, **shall return** any amounts garnished (**until December 2012, when garnishment not to exceed [REDACTED] per month is authorized**).

8. Petitioner Ridgeway testified she has a severe latex allergy and asthma. She testified that proteins from rubber can cause her to be unable to breathe. She wrote in her July 2011 Hearing Request, in part:

Additionally, I have no means to pay this. My debts are excessive due to no medical insurance and being stuck with an allergy that disabled me from my profession (nursing). Now after being unemployable for more than 10 years, I have begun a job. My latex allergy is severe and I have anaphylaxis within 5 or 10 minutes if my airway is exposed to natural rubber proteins.

Petitioner Ridgeway's reasonable and necessary living expenses and debts are overwhelming, as shown by her Consumer Debtor Financial Statement. Just one example is the nearly [REDACTED] that she still owes for medical care, including that of a cardiologist, in 2006. Petitioner Ridgeway now has health insurance through her employment, but her portion of her health insurance premium is expensive, and her out-of-pocket expenses can still run [REDACTED] to [REDACTED] per month. Her reasonable and necessary living expenses include shelter not only for herself but also for her children. She has been required to move often, and only her P.O. Box is a reliable address. Petitioner Ridgeway is responsible and willing and able to negotiate the repayment of the debt with Treasury's collection agency.

Discussion

9. **Through November 2012, NO garnishment is authorized. Beginning with December 2012, garnishment is authorized, not to exceed [REDACTED] per month.** I encourage **Petitioner Ridgeway and Treasury's collection agency** to negotiate the repayment of the debt. Petitioner Ridgeway, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. You may

choose to offer to compromise the debt for an amount you are able to pay, to settle the claim for less. You may have anyone you choose with you on the phone when you call.

Findings, Analysis and Conclusions

10. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Ridgeway and the US Forest Service; and over the subject matter, which is administrative wage garnishment.

11. **Through November 2012, NO garnishment is authorized**, because garnishment would create financial hardship (and has created financial hardship). Thereafter, beginning in December 2012, garnishment is authorized, **not to exceed [REDACTED] 0 per month**. 31 C.F.R. § 285.11.

12. Petitioner Ridgeway **shall be repaid any amounts already garnished** from her pay, and any amounts garnished from her pay before this Decision can be implemented, because of financial hardship. [Garnishment is ongoing because Petitioner Ridgeway's Hearing Request was late; it needed to be received by July 15, 2011; it was marked received July 17, 2011. The Notice from Treasury was not sent to Petitioner Ridgeway's P.O. Box, which is reliable, but to a physical address that she had moved out of in December 2010.]

13. Even though garnishment is limited by this Decision, repayment of the debt may nevertheless occur through *offset* of Petitioner Ridgeway's **income tax refunds** or other **Federal monies** payable to the order of Ms. Ridgeway.

Order

14. Until the debt is fully paid, Petitioner Ridgeway shall give notice to The US Forest Service or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

15. The US Forest Service, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment **through November 2012**. Thereafter, beginning in December 2012, the US Forest Service, and those collecting on its behalf, are authorized to proceed with garnishment, **not to exceed [REDACTED] per month**. 31 C.F.R. § 285.11.

16. Petitioner Ridgeway **shall be repaid any amounts already garnished** from her pay and any amounts garnished through November 2012.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties, as follows:

(1) Michael J. Ridgeway, Esq., shall be served by email AND at the mailing address shown below;

(2) Petitioner Ridgeway shall be served at the only reliable address she has, which is THE P.O. BOX shown in the letter dated February 17, 2009, over the signature of John Hernandez, Hearing Officer, a copy of which was filed in this case on September 13, 2011; and

(3) the US Forest Service representatives shall be served only by email, as shown below.

Done at Washington, D.C.
this 27th day of October 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Nathaniel Shunk nshunk@fs.fed.us

Steven Casey smcasey@fs.fed.us

Michael J. Ridgeway, Esq. mridgeway@hubblelandandlaw.com

AND

Michael J. Ridgeway, Esq.
P.O. Box 556
Stanford, MT 59479

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Avenue, SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776