

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

In re:	)	
	)	
Terri S. Simpson,	)	[AWG]
	)	<b>Docket No. 11-0444</b>
n/k/a Terri Graham,	)	
	)	
Petitioner	)	<b>Decision and Order</b>

1. The hearing by telephone was held as scheduled on November 8, 2011. Ms. Terri S. Simpson, now known as Terri Graham (“Petitioner Simpson”), did not participate. (Petitioner Simpson did not participate by telephone: she provided no telephone number where she could be reached for the hearing by telephone. She provided no telephone number in her Hearing Request; then, in response to my Order issued October 4, 2011, she provided no telephone number.)

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is 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](mailto:mary.kimball@stl.usda.gov) 314.457.5592 phone  
314.457.4426 FAX

Summary of the Facts Presented

3. Petitioner Simpson owes to USDA Rural Development a balance of **\$12,104.60** (as of October 19, 2011) in repayment of a United States Department of Agriculture Farmers Home Administration loan made in 1993, for a home in Texas. The balance is now unsecured (“the debt”). [The loan balance will change, because garnishment is ongoing; the

balance will likely have been reduced by the time I sign this Decision.] See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed October 20, 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 **\$12,104.60** would increase the current balance by \$3,389.29, to \$15,493.89. See USDA Rural Development Exhibits, esp. RX 8.

5. The amount Petitioner Simpson borrowed in 1993 was \$37,000.00. The account was reamortized on December 3, 1998. This meant the amount delinquent on the account was added to principal, making the account current. The principal amount due became \$41,411.98. This did not change the amount owed. By the time of the foreclosure sale in November 2003, the debt had grown to \$44,805.84:

\$ 36,307.33	Principal Balance prior to foreclosure sale
\$ 5,120.88	Interest Balance prior to foreclosure sale
\$ 3,130.63	Fee Balance prior to foreclosure sale (includes unpaid real estate taxes, unpaid insurance premiums)
<u>\$ 247.00</u>	Pre-foreclosure fees
\$ 44,805.84	Total Amount Due prior to foreclosure sale
<u>=====</u>	
- \$ 23,917.88	Proceeds from foreclosure sale
\$ 20,887.96	Unpaid in 2003

RX 7 and USDA Rural Development Narrative.

Another \$8,783.36 applied to the debt since then leaves **\$12,104.60** unpaid now (excluding the potential remaining collection fees). See RX 7, esp. p. 2, and USDA Rural Development Narrative.

6. Payments on the debt have been made by *offset*, usually of **income tax refunds**, since 2006. Petitioner Simpson's Hearing Request was late (by 4 days), so beginning in October 2011, she had already experienced garnishment. The substantial progress in repaying the debt is detailed on RX 7, p. 2, plus Narrative.

7. Even though Petitioner Simpson failed to file a Consumer Debtor Financial Statement, or anything, in response to my Order dated October 4, 2011, RX 6 includes her letter from 2002 trying to stop the foreclosure, which stated that three children lived with her in the home. Based on the two garnishments reported in RX 7, p. 2, plus Narrative, I calculate Petitioner Simpson's current disposable pay to be roughly [REDACTED] per month.

(Disposable pay is gross pay minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.)

8. To prevent hardship, taking into account the factors to be considered under 31 C.F.R. § 285.11, I find that potential garnishment to repay “the debt” (*see* paragraph 3) should be and will be limited to the following amounts of Petitioner Simpson’s disposable pay:

(a) through December 2012, **up to 5%**;

(b) beginning January 2013, through December 2014, **up to 7%**; and

(c) beginning no sooner than January 2015, **up to 10%**.

9. Petitioner Simpson is responsible and able to negotiate the repayment of the debt with Treasury’s collection agency.

#### Discussion

10. Garnishment of Petitioner Simpson’s disposable pay is authorized as shown in paragraph 8. I encourage **Petitioner Simpson and Treasury’s collection agency to negotiate promptly** the repayment of the debt. Petitioner Simpson, this will require **you** to telephone Treasury’s collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Simpson, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less. You may ask that **the debt be apportioned between you and your co-borrower**. Petitioner Simpson, you may want to have someone else with you on the line if you call.

#### Findings, Analysis and Conclusions

11. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Simpson and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

12. Petitioner Simpson owes the debt described in paragraphs 3, 4 and 5.

13. When Petitioner Simpson entered into the borrowing transaction with her co-borrower Mr. Alfred E. Simpson, Jr., certain responsibilities were fixed, as to each of them. The entire unpaid balance of the debt (**\$12,104.60** as of October 19, 2011, excluding the remaining potential collection fees), could be collected, legally, from Petitioner Simpson. [The debt is her co-borrower’s and her joint-and-several obligation.]

14. Through December 2012, **garnishment up to 5% of Petitioner Simpson's disposable pay** is authorized. Beginning January 2013, through December 2014, **garnishment up to 7% of Petitioner Simpson's disposable pay** is authorized. Beginning January 2015, **garnishment up to 10% of Petitioner Simpson's disposable pay** is authorized. 31 C.F.R. § 285.11.

15. **NO refund** to Petitioner Simpson of monies already collected or collected prior to implementation of this Decision is appropriate, and no refund is authorized.

16. Repayment of the debt may also occur through *offset* of Petitioner Simpson's **income tax refunds** or other **Federal monies** payable to the order of Ms. Simpson.

#### Order

17. Until the debt is repaid, Petitioner Simpson shall give notice to USDA Rural Development 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).

18. Through December 2012, USDA Rural Development, and those collecting on its behalf, are authorized to proceed with **garnishment up to 5% of Petitioner Simpson's disposable pay**. Beginning January 2013 through December 2014, **garnishment up to 7% of Petitioner Simpson's disposable pay** is authorized. Beginning January 2015, **garnishment up to 10% of Petitioner Simpson's disposable pay** is authorized. 31 C.F.R. § 285.11.

19. I am **NOT**, however, ordering any amounts already collected prior to implementation of this Decision, whether through *offset* or garnishment of Petitioner Simpson's pay, to be returned to Petitioner Simpson.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.  
this 15<sup>th</sup> day of November 2011

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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