

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0161

In re: Tom Childress
Petitioner

Decision and Order

This matter is before me upon the request of Petitioner for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On January 27, 2012, I issued a Prehearing Order to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing.

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-5 on February 1, 2012. The Petitioner filed no additional documents other than his hearing request.

On February 23, 2012, at the time set for the hearing, both parties were available and participated in the hearing. Ms. Michelle Tanner represented RD. Mr. Childress represented himself. The parties were sworn. During the hearing, Mr. Childress stated he has been voluntarily unemployed since January 2012.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On August 15, 2000, Petitioner assumed the existing loan of his mother for the primary home mortgage loan in the amount of \$38,000 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD), to re-finance his home on a property located in 6## D** Ave. Louisville, MS 39##¹. RX-1@ p. 11 of 11.
2. The Borrower became delinquent. The loan was accelerated for foreclosure on May 23, 2002. RX-2.
3. A foreclosure sale was ordered on May 23, 2002. Narrative. RX-4 @ p. 2 of 2.
4. The net funds received from the foreclosure sale was \$27,181.00. Narrative, RX-4.
5. The principal balance for the RD loan prior to the foreclosure was \$28,653.32, plus \$1,534.61 for accrued interest, less \$95.90 for an escrow balance for a total of \$31,252.82. Narrative, RX-4.
6. The total amount due after the sale was \$4,071.82 (as hand corrected). RX-4.
7. Advertising fees (received post-sale) were \$503.64 for a new total balance owed of \$4,575.46. RX-4.
8. Treasury has collected \$3,700.70 (less fees) a result of its off-set program. Narrative, RX- 5 @p. 1 of 3.
9. The remaining unpaid debt is in the amount of \$874.76 - exclusive of potential Treasury fees. Narrative.
10. The remaining potential fees from Treasury are \$262.43. RX-5 @ p. 2 of 3.

¹ The complete address is maintained in USDA files.

11. Mr. Childress states that he has been involuntarily unemployed since January 2012. Testimony.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$874.76 exclusive of potential Treasury fees for the mortgage loan extended to him.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$262.43.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Petitioner is not subject to administrative garnishment of his wages at this time.

Order

For the foregoing reasons, the wages of Petitioner shall not be subjected to administrative wage garnishment at this time.

After eleven months, Petitioner's financial position may be reviewed again.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's Office.

March 7, 2012

James P. Hurt
Hearing Official

Copies to: Tom Childress
Michelle Tanner
Dale Theurer

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