

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0507

In re: Crystal Davis Snyder¹,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the July 23, 2012 request of Crystal Davis (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development (“USDA-RD”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on August 2, 2012, the parties were directed to provide information and documentation concerning the existence of the debt. The matter was set for a telephonic hearing to commence on September 5, 2012 and deadlines for filing documents with the Hearing Clerk’s Office were established.

Both parties filed documents as instructed and the hearing commenced as scheduled. At the hearing, Petitioner represented herself and Appeals Coordinator Giovanna Leopardi represented USDA-RD. A review of documents prompted to me to request a search for a request for re-amortization signed by Petitioner, but that document has not been filed. I nevertheless place considerable weight on the contemporaneous notes made to Petitioner’s account and find that the account was re-amortized. My conclusion is bolstered by the judgment of foreclosure

¹ Petitioner has remarried, and accordingly, the caption is amended to reflect her current name.

issued by Florida State court, which would have required all documents pertinent to the balance due on the loan. See, RX-2; RX-3.

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 October 27, 2005, the Petitioner and her ex-husband² received a home mortgage loan in the amount of \$96,600.00 from USDA-RD for the purchase of residential property located in Milton, Florida. RX-1.
2. The Petitioner subsequently defaulted on the loan and the account was accelerated on January 20, 2009, when the balance due on the loan was \$124,703.33. RX-2.
3. At a foreclosure sale held on August 17, 2011, the property was sold to a third party for \$28,100.00. RX-3.
4. After proceeds of the sale were applied against Petitioner's account, the account balance stood at \$96,603.33. RX-5.
12. The outstanding balance was referred to the United States Department of Treasury ("Treasury") for collection. RX 7.
13. The balance is at Treasury in the amount of \$96,603.33 plus additional potential fees of \$27,048.93.
14. Petitioner timely requested a hearing, which was held on September 5, 2012.
15. Petitioner's income is erratic as she does not work full-time, and has only temporary employment, as documented on income tax returns.

² For the sake of clarity, as this matter involves only Petitioner's potential wage garnishment, any reference to Petitioner's account shall include her ex-husband by reference.

16. Petitioner has a chronic medical condition that requires treatment for which she was not insured, causing accumulation of debt for medical expenses.
17. Much of Petitioner's income consists of child support for her three minor children.
18. Petitioner's debts include taxes due to Alabama.
19. The Petitioner's spouse is self-employed.
20. The family expenses exceed the family monthly expenses.
21. Given Petitioner's limited income, Petitioner is unlikely to be in a position to liquidate the debt owed at this time.
22. Petitioner did not dispute that debt was owed, but she believed that her ex-husband should also be charged for it.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA Rural Development in the amount of \$96,603.33 exclusive of potential Treasury fees for the mortgage loan extended to her and her ex-husband.
3. Petitioner's ex-husband is equally and jointly liable for the debt.
4. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
5. Petitioner's expenses exceed her income and Petitioner is under a financial hardship at this time.
6. The Respondent is NOT entitled to administratively garnish the wages of the Petitioner.
7. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

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

Petitioner is encouraged in the interim to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Until the debt is satisfied, Petitioner shall give to USDA RD or those collecting on its behalf, notice of any change in her address, phone numbers, or other means of contact.

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

So Ordered this 27th day of September, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge