

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0124

In re: Brian D. King,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge 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 February 8, 2011, a Prehearing Order was entered 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 on March 16, 2011.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on February 18, 2011. The hearing was held as scheduled and the testimony of the Petitioner and Mary E. Kimball was received. At the conclusion of the hearing on March 16, 2011, the Petitioner was given additional time to file information concerning his financial condition. That documentation was received by the Hearing Clerk on March 28, 2011.

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 April 19, 1990, the Petitioner and Patrice King received a home mortgage loan in the amount of \$44,000.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Athens, Alabama. RX-1& 2.
2. The property was sold at a foreclosure sale on April 26, 2001 with proceeds realized from that sale in the amount of \$38,000.00, leaving a balance due of \$31,539.82. RX-5.
3. No Treasury offsets have been received. RX-6.
4. The remaining unpaid debt is in the amount of \$31,539.82 exclusive of potential Treasury fees. RX-6.
5. Although the Petitioner is employed, he has not been employed for a continuous twelve month period.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$31,539.82 exclusive of potential Treasury fees for the mortgage loan extended to him.
2. As the Petitioner has not been employed for a continuous twelve month period, garnishment of the wages of the Petitioner is not appropriate at this time.

Order

For the foregoing reasons, the wages of Petitioner may **NOT** be subjected to administrative wage garnishment. The indebtedness is still subject to Treasury action and garnishment proceedings may be re-commenced after an appropriate period of time.

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

March 31, 2011

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Brian D. King
Mary Kimball
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