

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Angela R. Sheele,)	Docket No. 12-0649
)	
n/k/a Angela R. Kershaw,)	
)	
Petitioner)	Decision and Order

Appearances:

Angela R. Kershaw, formerly known as Angela R. Sheele, the Petitioner, representing herself (appearing *pro se*); and

Giovanna Leopardi, Appeals Coordinator, United States Department of Agriculture, Rural Development, Centralized Servicing Center, St. Louis, Missouri, for the Respondent (USDA Rural Development).

1. The hearing by telephone was held on November 7, 2012. Angela R. Kershaw, formerly known as Angela R. Sheele (Petitioner Kershaw) participated, representing herself (appearing *pro se*).
2. Rural Development, an agency of the United States Department of Agriculture (USDA), the Respondent (“USDA Rural Development”), participated, represented by Giovanna Leopardi.

Summary of the Facts Presented

3. Petitioner Kershaw’s Exhibits PX 1 through PX 9 (filed October 11 & 15, 2012) , and her Hearing Request dated August 21, 2012, are admitted into evidence, together with the testimony of Petitioner Kershaw.
4. USDA Rural Development’s Exhibits RX 1 through RX 4, plus Narrative, Witness & Exhibit List (filed October 18, 2012), are admitted into evidence, together with the testimony of Giovanna Leopardi.

5. Petitioner Kershaw owed to USDA Rural Development **\$10,220.81** (as of October 16, 2012) in repayment of a USDA Rural Development / Rural Housing Service loan borrowed in December 1999 for a home in New Mexico, the balance of which is now unsecured (“the debt”). See USDA Rural Development Exhibits, esp. RX 1, RX 4.

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$10,220.81**, would increase the balance by \$3,066.24, to \$13,287.05. RX 4, p. 2.

7. The amount Petitioner Kershaw borrowed from USDA Rural Development / Rural Housing Service in December 1999 was \$58,100.00. RX 1. The loan became delinquent. USDA Rural Development approved foreclosure September 15, 2004, showing \$55,673.87 principal due (RX 2, p. 24), and the foreclosure sale was held on April 7, 2005. RX 2, p. 29.

\$ 55,673.87	unpaid principal
\$ 3,704.59	unpaid interest
\$ 1,010.01	fees/costs (taxes, insurance, other costs)
<u>\$ 357.07</u>	late charges, other fees/costs

\$ 60,745.54

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RX 3.

8. Proceeds from the foreclosure sale were \$39,500.00. RX 2, p. 29. The \$39,500.00 was applied to reduce the debt (leaving a balance owed of \$21,245.54). RX 3. Then additional costs and fees were billed (\$1,761.69), leaving a balance owed of \$23,007.23.

RX 3. U.S. Treasury *offsets* have since reduced the balance to **\$10,220.81**. RX 4. These *offsets* were substantial income tax refunds of Petitioner Kershaw, intercepted by U.S. Treasury in 2010, 2011, and 2012. RX 4. Since 2005 (when the proceeds from the foreclosure sale were applied), no additional interest has accrued.

9. Petitioner Kershaw owes the balance of **\$10,220.81** (excluding potential collection fees) as of October 16, 2012, and USDA Rural Development may collect that amount from her. RX 4.

10. Petitioner Kershaw testified and wrote (PX 9) that she and her 5-year old son have experienced financial hardship because of the *offsets* of her income tax refunds. She was newly divorced - - a single mom - - when the first one happened. She testified that now finally, her former husband has begun to pay child support regularly. Petitioner Kershaw works full-time and must provide day care for her son after school and on school holidays.

Petitioner Kershaw had been in her current job only about one month at the time of the Hearing.

11. Petitioner Kershaw's disposable pay (within the meaning of 31 C.F.R. § 285.11) is required, together with child support, together with a small amount of support from New Mexico, to meet her reasonable and necessary living expenses for herself and her son. [Disposable income is gross pay minus income tax, Social Security, Medicare, and health insurance; and in certain situations minus other employee benefits contributions that are required to be withheld.]

Discussion

12. Petitioner Kershaw, you may choose to telephone Treasury's collection agency to **negotiate** the repayment of the remaining debt. Petitioner Kershaw, 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 Kershaw, 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. Petitioner Kershaw, you may choose to offer to pay through solely **offset of income tax refunds**, perhaps with a specified amount for a specified number of years. Petitioner Kershaw, you may wish to include someone else with you in the telephone call if you call to negotiate.

Findings, Analysis and Conclusions

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

14. Petitioner Kershaw owes the debt described in paragraphs 5 through 9.

15. To prevent financial hardship, **garnishment is not authorized through 2014**; thereafter, garnishment is authorized, **up to 5%** of Petitioner Kershaw's disposable pay. 31 C.F.R. § 285.11.

16. I am **not** ordering any amounts already collected prior to implementation of this Decision, whether through **offset** or garnishment of Petitioner Kershaw's pay, to be returned to Petitioner Kershaw.

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

Order

18. Until the debt is repaid, Petitioner Kershaw 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).

19. USDA Rural Development, and those collecting on its behalf, are **not** authorized to proceed with garnishment of Petitioner Kershaw's disposable pay **through 2014**. **Beginning January 2015**, garnishment **up to 5%** of Petitioner Kershaw's disposable pay is authorized. 31 C.F.R. § 285.11.

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

Done at Washington, D.C.
this 21st day of December 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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