

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Debra A. Hayes,)	Docket No. 12-0636
)	
n/k/a Debra A. Christensen,)	
)	
Petitioner)	Decision and Order

Appearances:

Debra A. Christensen, formerly known as Debra A. Hayes, 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. Debra A. Christensen, formerly known as Debra A. Hayes (Petitioner Christensen) 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 Christensen’s documents including her Consumer Debtor Financial Statement (filed November 2, 2012), plus her Hearing Request and attached letter, both dated August 20, 2012, plus Notice of Default and Election to Sell (dated April 3, 2006), are admitted into evidence, together with the testimony of Petitioner Christensen.

4. USDA Rural Development’s Exhibits RX 1 through RX 6, plus Narrative, Witness & Exhibit List (filed October 16, 2012), are admitted into evidence, together with the

testimony of Giovanna Leopardi.

5. Petitioner Christensen owed to USDA Rural Development **less than \$2,045.90** (as of November 7, 2012) in repayment of a USDA Farmers Home Administration loan borrowed in July 1994 for a home in Utah, the balance of which is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, esp. RX 1, RX 6.

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$2,045.90**, would increase the balance by \$572.85, to \$2,618.75. RX 6, p. 2.

7. The amount Petitioner Christensen borrowed from USDA Farmers Home Administration in July 1994 was \$56,280.00. RX 1. The loan became delinquent and foreclosure was approved, but the foreclosure was canceled in May 2006. In August 2006 the home was sold in a short sale. The purchaser thereby obtained the real estate free and clear from the deed of trust, even though the sale proceeds did not pay in full the remaining loan balance owed.

8. The purchaser paid \$35,000.00, of which \$34,185.84 was available to apply on the remaining loan balance owed. RX 3, p. 39. The sale proceeds would not have paid even the principal balance owed, which was \$39,997.93. RX 3, p. 39. *See* RX 5, p. 1.

\$ 39,997.93	unpaid principal
\$ 1,845.72	interest
\$ 749.89	uncollected interest
<u>\$ 1,787.46</u>	fees/costs (taxes, insurance, other costs)
\$ 44,381.00	remaining loan balance owed
=====	

RX 5, p. 1.

9. The sale proceeds (\$34,185.84) were applied to reduce the remaining loan balance owed, leaving \$10,195.16 still owed. RX 5, p. 1. Then, the uncollected interest was waived (\$749.89), leaving a balance owed of \$9,445.27. RX 5, p. 1. Then, through debt settlement, Petitioner Christensen received **forgiveness** of \$6,445.27, so long as she would pay \$3,000.00. It is the \$3,000.00 that Petitioner Christensen is still working to repay. Since August 2006 (when the proceeds from the short sale were applied), no additional interest has accrued.

10. U.S. Treasury *offsets* and other payments processed at U.S. Treasury have since reduced the balance to **less than \$2,045.90**. *See* RX 6, esp. p. 1. Petitioner Christensen

owes the balance of **less than \$2,045.90** (excluding potential collection fees) and USDA Rural Development may collect that amount from her. RX 6.

11. Petitioner Christensen testified and wrote that she has experienced financial hardship because of the *offsets* and other payments she has made. When the debt was still at USDA Rural Development (Centralized Servicing Agency), the plan (in anticipation of the short sale) was for Petitioner Christensen to pay \$50.00 per month for 60 months. RX 5, pp. 3 and 5. Petitioner Christensen never made any of those payments. Still USDA Rural Development did **not** add back in, the \$6,445.27 that was forgiven, which remains forgiven.

12. Petitioner Christensen is married, but her husband has no obligation to repay the debt. Her husband pays rent and utilities, which gives Petitioner Christensen greater freedom in paying her own bills. Petitioner Christensen's disposable pay (within the meaning of 31 C.F.R. § 285.11) is currently not adequate for her to make the \$100 and \$75 payments she has on occasion made to U.S. Treasury. [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

13. Petitioner Christensen, you may choose to telephone Treasury's collection agency to **negotiate** the repayment of the remaining debt. Petitioner Christensen, 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 Christensen, 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 Christensen, 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 Christensen, you may wish to include someone else with you in the telephone call if you call to negotiate.

Findings, Analysis and Conclusions

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

15. Petitioner Christensen owes the debt described in paragraphs 5 through 10.

16. To prevent financial hardship, **garnishment is not authorized through June 2013**; thereafter, garnishment is authorized, **up to \$50 per month** of Petitioner Christensen's disposable pay. 31 C.F.R. § 285.11.

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

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

Order

19. Until the debt is repaid, Petitioner Christensen 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).

20. USDA Rural Development, and those collecting on its behalf, are **not** authorized to proceed with garnishment of Petitioner Christensen's disposable pay **through June 2013**. **Beginning July 2013**, garnishment **up to \$50 per month** of Petitioner Christensen'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 26th day of December 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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