

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	
Ruth E. Whigham, n/k/a)	AWG Docket No. 11-0205
)	
Ruth E. Purvis,)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held as scheduled on June 23, 2011. Ms. Ruth E. Purvis, formerly known as Ruth E. Whigham (“Petitioner Purvis”), did not participate. (Petitioner Purvis did not participate by telephone: no one answered the phone number she provided in her Hearing Request; a recording identified the phone as that of Petitioner Purvis; Petitioner Purvis did not provide any other phone number where she could be reached.)

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Mary E. Kimball. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

Summary of the Facts Presented

3. Petitioner Purvis owes to USDA Rural Development a balance of **\$12,085.05** (as of May 6, 2011) in repayment of two United States Department of Agriculture Farmers Home Administration loans made in 1989, for a home in Mississippi. The balance is now

unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed May 9, 2011), which are admitted into evidence, together with the testimony of Mary Kimball.

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$12,085.05** would increase the current balance by \$3,625.51, to \$15,710.56. *See* USDA Rural Development Exhibits, esp. RX 6, pp. 1, 2.

5. The amount Petitioner Purvis (then Whigham) borrowed in 1989 was \$39,500.00 (\$30,900.00 on one loan, \$8,600.00 on the other loan). In 1997, Petitioner re-amortized her accounts, which allowed her to become current, by adding the amount that was delinquent to the principal. By the time of the foreclosure sale in 2000, that debt had grown to \$51,645.41:

\$ 47,155.09	Principal Balance prior to foreclosure sale
\$ 3,462.41	Interest Balance prior to foreclosure sale
<u>\$ 1,027.91</u>	Fees Balance prior to foreclosure sale
\$ 51,645.41	Total Amount Due prior to foreclosure sale
<u>=====</u>	
- <u>\$ 34,300.00</u>	Proceeds from foreclosure sale
\$ 17,345.41	Unpaid in 2000

RX 5 and USDA Rural Development Narrative.

Another \$5,260.36 applied to the debt since then leaves **\$12,085.05** unpaid now (excluding the potential remaining collection fees). *See* RX 5, esp. pp. 2, 3 and USDA Rural Development Narrative.

6. Petitioner Purvis’s Hearing Request was late, so as of May 6, 2011, she had already experienced garnishment, at a rate of about [REDACTED] per month for six months. Petitioner Purvis’s progress in repaying the debt is detailed on RX 5, pp. 2, 3. Petitioner Purvis wrote:

“The amount of garnishment is too much. I would like to be able to pay [REDACTED] per month on it myself by money order.”

See Petitioner Purvis’s Hearing Request.

7. Based on roughly [REDACTED] per month garnishment, I calculate Petitioner Purvis’s current disposable pay to be roughly [REDACTED]0 per month. (Disposable pay is gross pay

minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.)

8. Taking into account the factors to be considered under 31 C.F.R. § 285.11, I find that potential garnishment to repay “the debt” (*see* paragraph 3) should be and will be limited to the following amounts of Petitioner Purvis’s disposable pay:

(a) through January 2012, zero per cent (0%);

(b) beginning February 2012, through January 2014, up to [REDACTED] per month; and

(c) beginning no sooner than February 2014, following review of Petitioner Purvis’s financial circumstances to determine what amount of garnishment she can withstand without financial hardship, up to 15%.

9. Petitioner Purvis is responsible and able to negotiate the repayment of the debt with Treasury’s collection agency.

Discussion

10. NO garnishment is authorized through January 2012. Thereafter, garnishment of Petitioner Purvis’s disposable pay is authorized as shown in paragraph 8. I encourage **Petitioner Purvis and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Purvis, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Purvis, 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.

Findings, Analysis and Conclusions

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

12. Petitioner Purvis owes the debt described in paragraphs 3, 4 and 5.

13. **NO garnishment is authorized through January 2012.** Beginning February 2012, 2012, through January 2014, **garnishment up to \$100.00 per month** is authorized. Beginning no sooner than February 2014, following review of Petitioner Purvis’s financial circumstances to determine what amount of garnishment she can withstand without financial

hardship, **garnishment up to 15% of Petitioner Purvis's disposable pay** is authorized. 31 C.F.R. § 285.11.

14. **NO refund** to Petitioner Purvis of monies already collected is appropriate, and no refund is authorized.

15. This Decision does not prevent repayment of the debt through *offset* of Petitioner Purvis's **income tax refunds** or other **Federal monies** payable to the order of Ms. Purvis.

Order

16. Until the debt is repaid, Petitioner Purvis 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).

17. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment through January 2012. Beginning February 2012, through January 2014, garnishment up to [REDACTED] per month is authorized. Beginning no sooner than February 2014, following review of Petitioner Purvis's financial circumstances to determine what amount of garnishment she can withstand without financial hardship, garnishment up to 15% of Petitioner Purvis'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 11th day of July 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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