



**Office of Appeals
U.S. Department of Housing and Urban Development
Washington, D.C. 20410-0001**

In the Matter of:

Danny and Lynn Jones,

Petitioner

HUDOA No. 10-H-NY-LL68
Claim No. 7-21060390A

Danny and Lynn Jones
3401 Anderson Road, #22
Antioch, TN 37013

Pro se

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For the Secretary

ORDER OF DISMISSAL

In 24 C.F.R. § 17.152(b) it provides that failure by the Petitioner to submit evidence within 65 calendar days from the date of the Department's Notice of Intent, will result in a dismissal of Petitioner's request for review by the HUD Office of Appeals.

Petitioner states "My husband has had bypass surgery and will be scheduled for another in the not-too-distant future. We cannot afford to pay anything back. I am enclosing the Road Home Application number, our FEMA number, 2005 Homestead Exemption Receipt and flood insurance document." (Petitioner's Request for Hearing, ("Request for Hearing"), filed March 4, 2010, Attached Letter, dated June 30, 2009.) Petitioner further states:

We never wanted to leave and we sure want to come home... This was our first home and [we] lived in it only three years to the month when Katrina hit. This is not supposed to end like this. We worked hard for this house and being that we are in our fifties, we are not likely to purchase another home. We wanted help then and we still want help. We just don't know what to do." (Id., Attached Letter from Petitioner, dated February 16, 2010.)

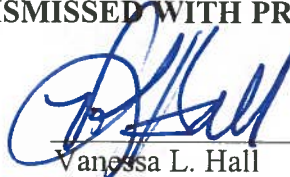
Petitioners were ordered on three occasions to submit documentary evidence in support of their position, but they failed to comply with any of the Orders.

This Office acknowledges Petitioner's financial circumstances, but the law provides "unfortunately, in administrative offset cases evidence of financial hardship, no matter how compelling, cannot be taken into consideration in determining whether the debt is past-due and enforceable." *Edgar Joyner, Sr.*, HUDBCA No. 04-A-CH-EE052 (June 15, 2005); *Anna Filiziana*, HUDBCA No. 95-A-NY-T11 (May 21, 1996); *Charles Lomax*, HUDBCA No. 87-2357-G679 (February 3, 1987). Financial adversity does not invalidate a debt or release a debtor from a legal obligation to repay it. *Raymond Kovalski*, HUDBCA No. 87-1681-G18 (December 8, 1986). Furthermore, no regulation or statute currently exists that permits financial hardship to be considered as a basis for determining whether a debt is past-due and enforceable in cases involving debt collection by means of administrative offset. Thus, consistent with case law precedent and statutory limitations, I find that financial hardship cannot be considered as a defense in this case as the debt owed by Petitioner is sought to be collected by means of administrative offset.

While this Office is not authorized to extend, recommend, or accept any payment plan or settlement offer on behalf of the HUD, Petitioners may wish to discuss this matter with either Counsel for the Secretary or Lester J. West, Director, HUD Albany Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121. His telephone number is 1-800-669-5152, extension 4206.

Upon due consideration of Petitioner's failure to comply with 24 C.F.R. § 17.152(b), and for good cause shown, Petitioner's appeal is DISMISSED *sua sponte*. It is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE**.



Vanessa L. Hall

Administrative Judge

July 8, 2010