

OFFICE OF HEARINGS AND APPEALS
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-0001

In the Matter of:

John F. King,

Petitioner

HUDOA No. 12-H-CH-PP36

Claim No. 7709558690A

August 16, 2012

AMENDED RULING ON SECRETARY'S MOTION TO DISMISS

Petitioner was notified by a Due Process Notice, pursuant to 31 U.S.C. §§ 3716 and 3720A, that the Secretary of the U.S. Department of Housing and Urban Development ("HUD") intended to seek administrative offset by the United States Department of the Treasury of any Federal payments due to Petitioner to recover a claimed past-due, and legally enforceable debt of Petitioner to HUD.

Petitioner filed a timely request to present evidence that the debt was not past-due or not legally enforceable. Pursuant to 24 C.F.R. § 17.150 et. seq. and § 20.4(b), the administrative judges of the HUD Office of Appeals are authorized to determine whether these debts are past due and legally enforceable. As a result of Petitioner's request, referral of the debt to the U.S. Department of the Treasury was temporarily stayed by this Office on March 19, 2012.

On March 22, 2012, a Motion to Dismiss was filed on behalf of the Secretary advising this Court that "Petitioner and HUD entered into a repayment plan that was acceptable to the Secretary." Even though Petitioner "made six payments from January 1999 through May 2000 totaling \$1,500.00," Petitioner also filed a "Chapter 13 Bankruptcy in the Western District of Texas on October 2, 2006," but, "the bankruptcy was dismissed on May 7, 2010." (See Sec'y's Motion to Dismiss, Ex. A, ¶¶ 9-[10].) Because Petitioner has already entered into a repayment agreement with HUD for the alleged debt, Petitioner may not now file, out of time, an appeal regarding this matter. On March 29, 2012, The Secretary's Motion to Dismiss was granted and dismissed with prejudice.

The Secretary subsequently filed a Motion for Reconsideration and Order on April 10, 2012 indicating that because the dismissal was granted with prejudice, the Secretary was barred from collecting any further debt from Petitioner by means of administrative offset even though the Secretary was authorized to collect the debt. On May 9, 2012, the Secretary subsequently responded to the Court's Ruling and Order issued on May 1, 2012 that sought clarification of certain issues before the Court amended the Ruling on the Secretary's Motion to Dismiss. Such matters have now been clarified.

Therefore, upon due consideration, the Secretary's Motion to Dismiss is **GRANTED**. It is hereby

ORDERED that the Secretary shall not seek to collect the claimed debt of Petitioner by means of an administrative offset of any Federal payment due Petitioner. It is hereby

FURTHER ORDERED that the stay of referral of this matter to the Department of the Treasury is made permanent.

This matter is **DISMISSED WITHOUT PREJUDICE**.

This Amended Ruling on Secretary's Motion to Dismiss supersedes the Ruling on Secretary's Motion to Dismiss issued on March 29, 2012.



Vanessa L. Hall
Administrative Judge