



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

In the Matter of:

KACY D. BLAKENEY,

Petitioner

HUDOA No. 12-M-NY-PP05
Claim No. 7-210061960A

RULING AND ORDER UPON RECONSIDERATION

On January 20, 2012, this Office issued a Ruling and Order of Dismissal (“Ruling and Order”), granting, in part, the Secretary’s Motion to Dismiss, filed on November 22, 2011. The Ruling and Order stayed the referral of the debt in this case to the U.S. Department of the Treasury for collection. On February 14, 2012, the Secretary filed the Secretary’s Motion for Reconsideration (“Sec’y Recon.”), seeking an Order lifting the Stay of Referral imposed in the Ruling and Order.

In support of the Secretary’s motion, the Secretary essentially states that this Court lacks jurisdiction to hear this administrative offset appeal on the grounds that Petitioner failed to file a timely appeal within the time limitations set forth in 24 C.F.R. §17.152(d)(2011). The Secretary states that:

Petitioner was served with a Notice of Intent to Collect by Treasury Offset (“Notice of Intent”) on October 26, 2009. Pursuant to 24 C.F.R. §17.152(d), Petitioner was required to file a request for a hearing within 65-days of the Notice of Intent. See 24 C.F.R. §17.152(d)(2011) . . . In the Notice of Intent[,] Petitioner was advised that failure to request a hearing by December 30, 2009 would result in the referral of his debt to Treasury for inclusion in Treasury’s Offset Program. (Supplemental Declaration of Brian Dillon at ¶3 – Exhibit A) . . . Petitioner failed to request a hearing, therefore, on January 4, 2010, HUD referred Petitioner’s debt to Treasury. (Id.)

Sec’y Recon., ¶¶4 – 6.

The record in this case confirms the argument and evidence filed by the Secretary. The Notice of Intent was served on Petitioner, and was dated, October 26, 2009. Petitioner's earliest communication of record requesting a hearing in response to the Notice of Intent, came two years later on October 27, 2011. *See* Petitioner's Request for Hearing, dated October 27, 2011, attaching the Notice of Intent, dated October 26, 2009. *See also* Declaration of Brian Dillon, Director, Asset Recovery Division, HUD Financial Operations Center, ¶3, attached as Exhibit A to Secy' Recon.

It is the policy of this Office, in the discretion of the Administrative Judge, and in keeping with the dictates of due process, to permit limited delays in the filing of requests for hearing and other necessary court documents. But where, as here, Petitioner failed to file the necessary request for hearing for a period of some twenty-two months, and offers no explanation of extraordinary circumstances that could justify the delay, untimeliness is clearly established. The Court finds that Petitioner's Request for Hearing was untimely filed and the Court therefore lacks jurisdiction to hear this administrative offset case. Upon consideration, the Secretary's Motion for Reconsideration is **GRANTED**. It is

ORDERED that the Ruling and Order issued in this case on January 20, 2012, is **MODIFIED** as follows:

The Stay of Referral of this debt to the U.S. Department of the Treasury, initially imposed on November 2, 2011, is hereby **VACATED**. It is

FURTHER ORDERED that the Ruling and Order issued in this case on January 20, 2012 shall remain in full force and effect, except as provided above.



H. Alexander Manuel
Administrative Judge

February 16, 2012