

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS

In the Matter of:

Randall Kirkwood,

Petitioner.

21-VH-0116-AO-016

7-210174060A

April 21, 2022

ORDER OF DISMISSAL


In 24 C.F.R. §§17.69 (b) and 26.4 (c) it provides, in general, that failure by the Petitioner to submit evidence within 60 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 Hearings and Appeals.

On April 6, 2021, Petitioner filed a *Request for Hearing* to review HUD's determination that Petitioner owed the subject debt. There is no record of evidence in support of Petitioner's claim that the subject debt does not exist or that Petitioner was released from the contractual obligation to pay the subject debt. To date, Petitioner has failed to comply with any of the Court's *Orders* on April 7, 2021, September 30, 2021, and February 3, 2022 to produce sufficient evidence to prove HUD issued to Petitioner a written release from the subject debt. The *Order to Show Cause* issued by the Court to Petitioner on February 3, 2022 specifically stated "**Failure to comply with this Order shall result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4 (c) and (d), including judgment being entered on behalf of the opposing party or dismissal of this action.** (Emphasis added). Petitioner again failed to comply as ordered. The lapse of time since April 2021 has provided Petitioner with a number of opportunities to comply with the Court's *Orders* but without response. As a result, the Court is unable to determine the credibility of Petitioner's argument in the absence of such evidence.

Consistent with the provisions of 24 C.F.R. §§ 17.69 (b) and 26.4 (c) and (d), Petitioner's appeal is hereby **DISMISSED WITH PREJUDICE** *sua sponte* due to Petitioner's non-compliance with the Court's *Orders* to produce the necessary evidence for the Court's review.

The stay of proceeding issued on April 7, 2021 is hereby **VACATED**.

SO ORDERED.



Vanessa L. Plall
Administrative Judge