



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

In the Matter of:

Donald Andrade aka Donald Cleaves,
 Petitioner

HUDOA No. 10-H-NY-AWG02
 Claim No. 721000830

Donald Andrade aka Donald Cleaves
 329 Purchase Street
 New Bedford, MA 02740

Pro se

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 Urban Development
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For the Secretary

RULING AND ORDER OF DISMISSAL

On October 5, 2009, Petitioner filed a timely request to present evidence that an alleged past-due, legally enforceable debt of Petitioner to the U.S. Department of Housing and Urban Development (“HUD”) should not be collected by the Secretary by means of administrative wage garnishment. Pursuant to 24 C.F.R. §§ 17.170, 20.4(b), and 31 C.F.R. § 285.11(f), the administrative judges of the HUD Office of Appeals are authorized to determine whether certain debts exist and are legally enforceable and whether they can be collected by means of administrative wage garnishment. 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 October 6, 2009. (Notice of Docketing, Order, and Stay of Referral.)

On October 21, 2009, a Motion to Dismiss (“Sec’y Mot. to Dismiss”) was filed by the Secretary in which he stated “Based on the financial information provided by Petitioner with his hearing request, a garnishment of any amount would cause a financial hardship to Petitioner, therefore, HUD has determined that it will not seek to collect this debt at the present time.” (Secretary’s Motion to Dismiss, ¶ 2, Attach. Exh. A., Declaration of Brian Dillon, Director of HUD’s Asset Recovery Division, ¶ 3.) The Secretary moves to dismiss this action without prejudice as against Petitioner but reserves the right “to renew the application at such time as Petitioner should become eligible for wage garnishment.” (Sec’y Mot. to Dismiss.)

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

ORDERED that the Secretary shall not seek collection of this outstanding obligation by means of administrative wage garnishment of any federal payment due Petitioner at this time.

The Stay of Referral of this matter to the U.S. Department of the Treasury issued by this Office on October 6, 2009 shall remain in place indefinitely.

However, the Secretary shall reserve any rights or remedies that he may have to renew the application at such time as Petitioner should become eligible for wage garnishment.

This matter is **DISMISSED** without prejudice.



Vanessa L. Hall
Administrative Judge

October 22, 2009