



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

In the Matter of:

**David King Jr.,**

Petitioner

HUDOA No. 11-M-CH-AWG123  
Claim No. 780726730

David King Jr.  
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*Pro se*

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**RULING ON MOTION FOR RECONSIDERATION**

On December 7, 2011, this Office issued a Decision and Order in the above-captioned proceeding finding that the debt claimed by the Secretary in this case was past due and legally enforceable. This Office further found that a garnishment of 25% of Petitioner's weekly disposable income would not cause a significant financial hardship for him<sup>1</sup>. Decision and Order ("Initial Decision"), dated December 7, 2011.)

Pursuant to the Notice of Docketing, Order, and Stay of Referral ("Notice of Docketing") issued by this Court on August 4, 2011, Petitioner was permitted 20 days from the date of the Initial Decision to file a Motion for Reconsideration of that decision. (Notice of Docketing, dated August 4, 2011, pp. 1-2.) The Court may grant a Reconsideration, at its discretion, but only for good cause shown, e.g., newly discovered material evidence or clear error of fact or law. *See Mortgage Capital of America, Inc.*, HUDBCA No. 04-D-NY-EEO32 (September 19, 2005); *Paul Dolman*, HUDBCA No 99-A-NY-Y41 (November 4, 1999); *Anthony Mesker*, HUDBCA No. 94-C-CH-S379 (May 10, 1995. It is not the purpose of a Reconsideration to afford a party the opportunity to reassert contentions that have been fully considered and determined in the preceding decision. *See Mortgage Capital of America, Inc.*, *supra*; *Louisiana Housing Finance*

<sup>1</sup> In most cases, administrative wage garnishment is capped at 15% of a debtor's disposable income. 31 C.F.R. § 285.11(i)(2)(i)(A). However, because Petitioner is also having child support payments withheld from his salary, the Secretary is authorized to garnish 25% of Petitioner's disposable pay, less the amount of the support payments. 31 C.F.R. § 285.11(i)(3)(ii)(B).

*Agency*, HUDBCA No. 02-D-CH-CC006, (March 1, 2004); *Paul Dolman*, *supra*; *Charles Waltman*, HUDBCA No. 97-A-NY-W196 (September 21, 1999); *Seyedahma Mirhosseini*, HUDBCA No. 95-A-SE-S615 (January 13, 1995).

On December 28, 2011, Petitioner filed a document that the Court deems to be a Motion for Reconsideration<sup>2</sup>. (Petitioner's Motion for Reconsideration ("Pet'r's Recon Mot."), filed December 28, 2011.) Petitioner does not maintain that he presents any new material evidence relating to this case. Rather, he claims this Court erred by failing to verify Petitioner's claimed expenses before issuing the Initial Decision. (Pet'r's Recon Mot.) He also asserts that he has not historically itemized his purchases or payments, making it unreasonable for the Court to expect him to produce detailed records. (*Id.*)

As to Petitioner's claim of error, the Notice of Docketing states that: "[T]o prove financial hardship, Petitioner's documentary evidence should not be limited to a mere list of expenses, but instead must include proof of payment of household expenses." (Notice of Docketing, p. 2.) The Notice of Docketing goes on to list several forms of acceptable documentary evidence, including cancelled checks, receipts, or bills,; copies of pay statements; copies of utility bills or car loan payments; and proof of dependents residing in the household. (*Id.*) This information was repeated verbatim in an Order issued to Petitioner on October 6, 2011. Petitioner was therefore aware that he was required to produce affirmative evidence to prove his debts, expenses, and payments of the same.

Petitioner failed to provide this proof. Instead, he filed a one-page document describing his financial difficulties, listing account numbers for his various utilities, and offering estimates of other expenses. (Petitioner's Letter ("Pet'r's Ltr."), filed November 3, 2011.) This document, standing alone, is insufficient to prove Petitioner's claim of financial hardship.

In addition, Petitioner's assertion that the Court erred in failing to verify the information associated with the account numbers is without basis. It is not the Court's responsibility to conduct an investigation into Petitioner's alleged expenses, and the Court has neither the resources nor inclination to do so. It is the Petitioner who seeks to assert this claim, and it is therefore Petitioner's responsibility to provide the evidence necessary to prove his claim. He cannot shift this burden to the courts.

Petitioner's argument that the Court required him to produce "itemized records" of his purchases is also incorrect. (Pet'r's Ltr.) As explained above, all that was required was that Petitioner come forward with his pay statement and proof of payment of monthly bills (such as copies of checks, money orders, or bank statements) verifying Petitioner's household expenses. Petitioner did not — and in some cases admitted he could not — provide this information. As such, there was simply no documentary evidence for the Court to analyze Petitioner's claim of financial hardship. Petitioner, therefore, did not meet his burden of proof, and failed to prove his financial hardship claim.

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<sup>2</sup> Although the Motion was filed 21 days after the Initial Decision, the Court, in its discretion, deems the Motion to be timely filed.

Finding no errors of fact or law in the Initial Decision, I conclude that Petitioner has not demonstrated good cause for reconsideration. Accordingly, the Motion is **DENIED**.

Petitioner may, at any time, request a review by HUD of the garnishment amount, based on materially changed circumstances such as disability, divorce, or catastrophic illness that result in financial hardship.” 31 C.F.R. § 285.11(k)(1).

**ORDER**

For the reasons set forth above, the Decision and Order issued in this matter on December 7, 2011, which found the debt that is the subject of this proceeding to be past-due and enforceable against Petitioner, shall not be modified and shall remain in full force and effect.



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H. Alexander Manuel  
Administrative Judge

February 1, 2012