



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

In the Matter of:

**Kelvin Fields,**  
Petitioner

HUDOA No. 11-H-NY-AWG88  
Claim No. 780257660

Kelvin Fields  
1724 Lamont Avenue  
Baltimore, MD 21202

Pro se

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For the Secretary

**RULING ON SECRETARY'S MOTION TO DISMISS**

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 31 C.F.R. § 285.11, as authorized by 24 C.F.R. § 17.170, the administrative judges of the HUD Office of Appeals ("Court") are authorized to determine whether the debt that is the subject of this proceeding is past due and legally enforceable. As a result of Petitioner's hearing request, referral of the debt to the U.S. Department of the Treasury was temporarily stayed by this Court on April 19, 2011. *See* 31 C.F.R. §285.11(f) (4).

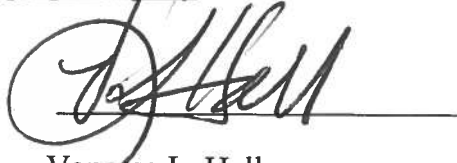
On May 3, 2011, the Secretary filed with the Court a Motion to Dismiss without prejudice its action to pursue administrative wage garnishment against Petitioner "since any additional garnishments beyond Petitioner's current withholdings for Child Support and Tax Levy would exceed the allowable limits under the statute." (See also Declaration of Brian Dillon at ¶ 3, Exhibit A.)

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

**ORDERED** that this matter is **DISMISSED** without prejudice to renew the application at such time as Petitioner should become eligible for wage garnishment. It is hereby

**FURTHER ORDERED** that the Stay of Referral of this matter to the U.S. Department of the Treasury issued by this Court on April 19, 2011 shall remain in place indefinitely.

It is further noted that the Motion to Dismiss filed with this Court by the Secretary contained a spelling error in Petitioner's name.<sup>1</sup> Therefore the Court, respectfully, has amended the caption to reflect the correct spelling of Petitioner's name as referenced above in order to ensure that the claim now being dismissed without prejudice is dismissed on behalf of the appropriate party.

A handwritten signature in black ink, appearing to read 'V. Hall', is written over a horizontal line.

Vanessa L. Hall  
Administrative Judge

May 6, 2011

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<sup>1</sup> While the Declaration of Brian Dillon attached to the Secretary's Motion to Dismiss identifies Petitioner's real name as his alias, Petitioner, by his own admission and along with sufficient evidence, has noted in the record that his correct name is Kelvin, not Kevin, Fields.