

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

In the Matter of:

Justin E. Perkins,

Petitioner.

18-VH-0232-AG-117

780742265

October 15, 2019

ORDER OF DISMISSAL


24 C.F.R. § 26.4 (c) provides that “If a party refuses or fails to comply with an order of the hearing officer, including an order compelling discovery, the hearing officer may enter any appropriate order necessary to the disposition of the hearing *including a determination against the noncomplying party...*” Further, under 24 C.F.R. § 26.4 (d), it provides, “If a party fails to prosecute or defend an action brought under subpart A of this part, the hearing officer may dismiss the action or may issue an initial decision against the non-prosecuting or defending party. (Emphasis added).”

Petitioner offered to submit copies of a divorce decree and other evidence in support of his allegation that the subject debt was a shared responsibility between him and his former spouse, but ultimately Petitioner failed to do so. Even if the divorce decree had been submitted, it still would not have been enough to prove Petitioner’s release directly from HUD for the subject debt. Petitioner likewise failed to offer, in compliance with the Court’s *Orders*, other evidence to refute the Secretary’s claim or proof to support that the subject debt was fully paid or rendered unenforceable. The *Order for Documentary Evidence* issued on November 27, 2018 by the Court 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), including judgment being entered on behalf of the opposing party.**” (Emphasis in original). Therefore, Petitioner’s claim herein fails for lack of proof and for non-compliance with the Court’s *Orders*.

Consistent with the provisions of 24 C.F.R. §§ 26.4 (c) and (d), Petitioner’s appeal is **DISMISSED** *sua sponte*. It is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE** and the stay of proceeding issued by *Notice of Docketing* on September 6, 2018 is VACATED.

SO ORDERED.


Vanessa L. Hall
Administrative Judge