

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket Nos. 16-0161 & 16-0162
)
Eddie Wise and Dorothy Wise,)
)
Petitioners)

Ruling Dismissing the Wises' Petition for Review

PROCEDURAL HISTORY

On August 24, 2016, Eddie Wise and Dorothy Wise [Wises] instituted this proceeding by filing a “Complaint Expedited Formal Hearing on Ther [sic] Merits and Temporary Injunction” [Complaint] in which the Wises allege the United States Department of Agriculture [USDA]: (1) terminated financial assistance to the Wises; (2) discriminated against the Wises; (3) foreclosed on the Wises; (3) offset the Wises’ retirement; (4) seeks to take more money from the Wises by way of offset; (5) changed the Wises’ 2010 farm plan in order to deny the Wises a farm-operating loan; and (6) sold the Wises’ farm without a determination by an arbitrator or a formal hearing on the merits by an administrative law judge (Compl. at 1, 3-5). The Wises seek damages and a hearing before an administrative law judge (Compl. at 1, 5).

On September 22, 2016, Administrative Law Judge Jill S. Clifton [ALJ] dismissed this proceeding, holding administrative law judges have no authority to grant the relief requested by the Wises and the doctrine of *res judicata* precludes consideration of the Wises’ Complaint.¹ On

¹ Wise, Docket Nos. 16-0161 and 16-0162, 2016 WL 6235795 (U.S.D.A. Sept. 22, 2016) (Dismissal (With Prejudice)).

September 23, 2016, the Wises appealed the ALJ's dismissal of the proceeding, and, on appeal, I affirmed the ALJ's dismissal of the proceeding and dismissed the Wises' appeal petition.²

On December 28, 2016, the Wises filed a "Petition for Review and Request for a Formal Hearing before the Administrative Law Judge" [Petition for Review]³ again seeking damages and a hearing before an administrative law judge. On December 29, 2016, the Hearing Clerk, Office of Administrative Law Judges, United States Department of Agriculture, transmitted the record to the Office of the Judicial Officer for consideration of the Wises' Petition for Review.

DISCUSSION

I issued a final agency Decision and Order in this proceeding on November 15, 2016.⁴ The Wises do not assert that *Wise*, Docket Nos. 16-0161 and 16-0162, 2016 WL 6956717 (U.S.D.A. Nov. 15, 2016), contains any error of law or fact or that there has been an intervening change in controlling law. Instead, the Wises' Petition for Review appears to be merely a vehicle for registering disagreement with *Wise*, Docket Nos. 16-0161 and 16-0162, 2016 WL 6956717 (U.S.D.A. Nov. 15, 2016). Absent highly unusual circumstances, which are not present in this proceeding, I would only grant the Wises' Petition for Review if I had committed an error of law or fact which would affect the outcome of this proceeding or if there had been an intervening change in the controlling law. As the Wises do not assert, and I cannot identify, any dispositive error in *Wise*, Docket Nos. 16-0161 and 16-0162, 2016 WL 6956717 (U.S.D.A. Nov. 15, 2016), or any change in controlling law, the Wises' Petition for Review must be dismissed.

² *Wise*, Docket Nos. 16-0161 and 16-0162, 2016 WL 6956717 (U.S.D.A. Nov. 15, 2016).

³ The Wises assert they are "pro se [p]laintiffs" (Pet. for Review at 1); however, Corey Lea signed the Wises' Petition for Review for "Eddie Wise" and "Dorothy Wise" and has represented the Wises since the inception of this proceeding on August 24, 2016.

⁴ *See supra* note 2.

For the foregoing reason, the following Ruling is issued.

RULING

The Wises' Petition for Review, filed December 28, 2016, is dismissed.

Done at Washington, DC

January 10, 2017

William G. Jenson
Judicial Officer