

Summary: The Government directed a writ of garnishment to the Garnishee. The Court found, after a garnishment hearing, that the Government had met its burden of proof in establishing that the Defendant's claims of exemption would not affect the amounts withheld for garnishment and the Government complied with all statutory requirements for the issuance of the post-judgment remedy granted. The Court ordered the Garnishee to pay the sum of twenty-five percent of the Defendant's disposable earnings for application toward the Defendant's criminal monetary penalties.

Case Name: USA v. Larry Young, et al.

Case Number: 1-07-mc-9

Docket Number: 58

Date Filed: 6/27/08

Nature of Suit:

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	
)	ORDER OF GARNISHMENT
vs.)	
)	
Larry Young,)	Case No. 1:07-mc-09/1:90-cr-08
)	
Defendant,)	
)	
and)	
)	
Huey Long Company, Inc.,)	
)	
)	
Garnishee.)	

A Writ of Garnishment, directed to the Garnishee, has been issued and served upon the parties in this case. Pursuant to the Writ of Garnishment, the Garnishee filed an answer on January 30, 2008, stating that at the time of service the Garnishee had in its possession or under its control, personal property belonging to and due the defendant, and that the Garnishee was indebted to the Defendant in the estimated sum of \$934.27 per pay period.

The Defendant's request for a hearing was granted, and a hearing was conducted on June 16, 2008. Pursuant to 28 U.S.C. § 3202(d), the issues to be resolved at the garnishment hearing are limited to the probable validity of any claim of exemption by the judgment debtor and whether there was compliance with any statutory requirement for the issuance of the post-judgment remedy granted. It is well-established that the defendant may not challenge the validity of the underlying conviction or the restitution obligation during a garnishment hearing. United States v. Pugh, 75 Fed. Appx. 546, 2003 WL 22048360 (8th Cir. 2003); United States v. Taylor, Criminal No. 2:99CR13, 2007 WL 87746, at *2 (W.D.N.C. Jan. 9, 2007).

The Court finds that the Government, in accordance with 28 U.S.C. § 3202(d), has met its burden of proof in establishing that the Defendant's claims of exemption would not in any manner affect the amounts withheld for garnishment and the Government complied with all statutory requirements for the issuance of the post-judgment remedy granted. Upon consideration of the arguments and evidence presented,

IT IS ORDERED that the garnishee, Huey Long Company, Inc., shall pay the sum of twenty-five percent (25%) of the Defendant's disposable earnings to the Clerk of Court, P. O. Box 1193, Bismarck, North Dakota 58502-1193 for application toward the criminal monetary penalties assessed against the defendant, Larry Young, and continue payments until the debt is paid in full or until the Garnishee no longer has custody, possession, or control of any property belonging to the Defendant or until further order of this Court.

Dated this 27th day of June, 2008.

s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court