

STATE OF SOUTH CAROLINA

YORK COUNTY

Jacqueline R. Dickerson,

Plaintiff,

vs.

Altavia McCullough Chisholm  
d/b/a Knox Bonding,

Defendant.

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DAVID J. HAMILTON  
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COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

ORDER

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Civil Judgment No. 2015-CP-46-2298

SC Court of Appeals

The judgment debtor's motion for reconsideration pursuant to Rule 59(e), SCRPC, came before me on October 12, 2017. Plaintiff was represented by Lucy L. McDow. James W. Boyd represented the Defendant. J. Martin Foster, counsel for Defendant's mother and co-trustee, Sandra Knox, also appeared. Defendant ("Chisholm") sought reconsideration of the Court's order issued August 29, 2017 ("Order"). The Order required her to turn over assets to the judgment creditor in the form of accounts receivable, to pay over certain business funds not spent on estreatments and telephone expenses, and to provide certain current and future accountings.

Chisholm presented six issues for reconsideration. After careful review, I decline to change my ruling on these issues, although I am addressing statutory exemptions for "personal earnings" in more detail. Chisholm contends that assigning her income or her business accounts receivable to the judgment creditor constitutes an execution against her "earnings for personal services," in violation of S.C. Code Ann. §15-39-410 (1976) and in excess of the amount allowed by 11 U.S.C. §§1672 and 1673(a) and (c).

The testimony supporting the prior Order established that Chisholm owns and runs a sole proprietorship, Knox Bonding Company, from which she receives the net profits. She files tax returns based on Knox Bonding's income and expenses. She does not pay herself wages, has no employment contract, and she uses others to help generate the business's proceeds. She is not the only person who receives the business proceeds, as they are shared with her "runner," among others. Chisolm's income is the amount the business has left to distribute, after expenses.

Knox Bonding serves as bail bondsman for its customers for a fee. Once the customer is

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released on a Knox bond, Knox Bonding's obligation to the customer is fulfilled. Chisholm's ability to provide that bond arises from state-issued licenses, and from the required collateral she pledges to the court, not from her personal services.

Chisholm typically collects a down payment on the fee, and allows customers to defer the balance for future payment. She establishes accounts receivable for those future amounts. Regardless of who "sold" the original bail bond, or how the fee was generated, the accounts receivable are an asset, and payment is no longer a contemporaneous exchange. They become ordinary debts owed for past consideration.

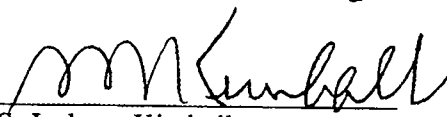
Even if fee down payments were to be considered earnings resulting from Chisholm's personal services, she has proffered no evidence of the amounts resulting from her own personal efforts, as opposed to the amounts generated by others who have been compensated by the business. She has likewise brought to the Court's attention no case law in support of her characterization of either the down payments, or the accounts receivable, as earnings to which the state exemption statute or the federal statutory garnishment limits apply.

With regard to Chisholm's other arguments, I confirm my earlier rulings. Upon reviewing the record presented, and considering the memoranda and arguments of counsel, I find no matter presented that was not addressed expressly or by clear implication in the prior order. I further find no basis for reconsideration or amendment of the ruling rendered in the prior order.

Therefore, it is ordered that Defendant's Motion pursuant to Rule 59(e), SCRCP, be denied.

AND IT IS SO ORDERED.

October 18, 2017

  
S. Jackson Kimball  
Special Circuit Court Judge  
York County

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