

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF IOWA**

In re:

KC Charles Kruse

Case No. 18-00016-als7

Debtor(s)

**MEMORANDUM OF DECISION
(date entered on docket: July 2, 2018)**

Before the Court is a dispute involving Kruse's claim to exempt wages. The Court has jurisdiction in this core proceeding under 28 U.S.C. §§ 1334 and 157(b)(1). For the reasons stated the Trustee's objection is overruled and the Debtor's claim of exemption in garnished wages is allowed.

DISCUSSION

Iowa has opted out of the federal exemption scheme. 11 U.S.C. §522(b) (2018). Its residents must use the exemptions set forth in Iowa Code Chapter 627. The statutory exemptions are liberally construed in favor of a debtor to confer the intended benefit. *Frudden Lumber Co. v. Clifton*, 183 N.W.2d 201, 203 (Iowa 1971). In applying this standard, a court must be mindful of the rules governing statutory construction. See *Kokoszka v. Belford*, 417 U.S. 646, 650 (1974). It is well settled that the language of a statute is given its plain meaning to initially determine the legislative intent. See *In re Det. of Fowler*, 784 N.W.2d 184, 187 (Iowa 2010); *Benjegerdes v. Reindl (In re Reindl)*, 671 N.W. 2d 466, 469 (Iowa 2003). "The court is not at liberty to read into the statute provisions which the legislature did not see fit to incorporate, nor may it enlarge the scope of its provisions by an unwarranted interpretation of the language used." *Forker v. Irish (In re Irish)*, 311 B.R. 63, 68 (B.A.P. 8th Cir. 2004) (quoting *Moulton v. Iowa Emp't Sec. Comm'n.*, 239 Iowa 1161, 34 N.W.2d 211, 216 (1948) *superseded* by statute on other grounds, Iowa Code § 96.5(1)(d)); *In re Arthur*, Nos. 10-00463-als7, 09-04332-als7, 2010 Bankr. LEXIS 4015, at *6-7 (Bankr. S.D. Iowa Oct. 20, 2010).

Kruse filed amended Schedules A/B and C that identified garnished and earned wages. The sole issue before the Court is whether his wages in the amount of \$1,880.46 that were garnished pre-petition are properly claimed as exempt in the amount of \$1,000 under Iowa Code §627.6(10). That statute states:

In the event of a bankruptcy proceeding, the debtor's interest in accrued wages and in state and federal tax refunds as of the date of filing of the petition in bankruptcy, not to exceed one thousand dollars in the aggregate. This exemption is in addition to the limitations contained in sections 642.21 and 537.5105.

The parties dispute centers upon the meaning and of the term “accrued” as used in the statute. Citing to dictionary and finance definitions the Trustee alleges that the term “accrued wages” cannot include amounts that have been paid by the employer.¹ Kruse argues that such an interpretation would require the statute to be read as stating that wages must be both accrued and “unpaid.”

In 1989, the Iowa Supreme Court held that wages deposited into a bank account retain exempt status. *MidAm Sav. Bank v. Miehe*, 438 N.W. 2d 837, 839 (Iowa 1989). In reaching this conclusion, the opinion stated:

If wages intended by law to be exempt from creditors' claims are only accorded that status in the hands of the debtor's employer, the protection can be rendered meaningless by creditors levying on the funds in the hands of the debtor or on the debtor's bank account.

Under Iowa law a defendant “has an equitable interest in raising defenses or exemptions until the funds are condemned.” *In re See*, 301 B.R. 549, 522 (Bankr. N.D. Iowa 2003) (citing *Climer*, slip op. at 2 (Bankr. N.D. Iowa Nov. 26, 1997); *In re Yetter*, 112 B.R. 301, 303 (Bankr. S.D. Iowa 1990). If, as in this case, a garnishment is pending when a bankruptcy petition was filed the funds subject to the garnishment become property of the bankruptcy estate. *In re Forkner*, No. 10-01585, 2010 Bankr. LEXIS 4593, at *8-9 (Bankr. N.D. Iowa Dec. 22, 2010). While it is true that Kruse's wages were paid to the sheriff, that act alone does not change the underlying fact that the garnished funds represent accrued wages owed to Kruse from his employer and does not deprive him of his

¹ The Trustee also points to *In re Prothero* (11-00615) and *In re Sandstrom* (17-00774) for support. Both of these cases involved objections to exemptions that were bar dated and received no opposition. Though the Trustee received a favorable outcome in both of these cases on similar issues, neither of these orders resulted from a determination on the merits.

interest in those funds, including his right to claim a wage exemption. *In re Yetter*, 112 B.R. at 303. To conclude otherwise would result in an overly narrow interpretation of the statute.

For the reasons stated, it is hereby ORDERED that

1. The Debtor's objection is sustained and the Trustee's objection is overruled.
2. The garnished wages claimed as exempt in the amount of \$1,000 is allowed under Iowa Code §627.6(10).

/s/ Anita L. Shodeen
Anita L. Shodeen
U.S. Bankruptcy Judge

Parties receiving this Memorandum of Decision from the Clerk of Court:
Electronic Filers in this Chapter Case