

Relying on Marian Health Center. v. Cooks, 451 H.W.2d 846 (Iowa App. 1989), Judge Hill in Matter of Sexton, 140 B.R. 742 (Bankr. S. D. Iowa 1992), held an independent contractor's compensation for services can be considered wages for Iowa Code § 627.6(9)(c).

UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

In the Matter of

WILFRED NEWELL SNIPES,
aka/dba Bill Sniper
aka Bill Snipes
dba B&A Janitorial Services,
and ANGELIA FAITH SNIPES,
aka/dba AKA Angelia F. Corbitt
aka Angelia F. Snipes,

Case No. 88-668-C J

Chapter 7

Debtors.

ORDER ON OBJECTION TO PROPERTY CLAIMED AS EXEMPT

On August 9, 1988 the trustee's objection to property claimed exempt came on for hearing in Des Moines, Iowa. The Chapter 7 trustee, David A. Erickson, appeared. John F. Sprole appeared on behalf of the debtors. The parties subsequently submitted the matter on briefs and a stipulation of facts. The court considers the matter fully submitted.

FACTS

The parties stipulate to the following facts:

1. The debtors own and operate B & A Janitorial Services. The business is not incorporated and is not treated as a partnership for tax purposes.
2. The debtors perform the labor involved in the business.

3. The debtors have casual employees who receive wages in the usual manner, with the debtors withholding state and federal taxes and filing employer returns.

4. The debtors receive payment by the month and place

the monthly payments in a joint account.

5. The debtors maintain no personal bank accounts, but rather pay personal bills from the B & A account.

6. The debtors routinely take what they term "draws" from the B & A account when money is available. However, they do not keep records for themselves as employees. Mr. Snipes paid self-employment tax of \$179.00 for 1987. Ms. Snipes had other employment in 1987.

7. The debtors have no other employment or business.

8. Certain businesses owe the debtors money for cleaning services performed approximately one month prior to the Chapter 7 filing. In their amendment to Schedule B-4, the debtors each claim up to \$1,000.00 of the receivables as exempt wages.

DISCUSSION

The trustee maintains that the receivables do not qualify as wages under Iowa Code section 627.6(9)(c). This provision states in relevant part:

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 sand dollars in the aggregate [is exempt].¹

Id. According to the trustee, wages are specific sums paid by an employer in return for services rendered by an employee.

¹ Pursuant to section 627.6(9), musical instruments held for personal use and one motor vehicle may be claimed exempt along with wages but the combined value can not exceed \$5,000.00.

The trustee argues that the amounts in question are not compensation for services rendered by an employee.

In interpreting Iowa's exemption statute, the court is mindful of the well-settled proposition that Iowa's exemption statute must be liberally construed. Frudden Lumber Co. v. Clifton, 183 N.W.2d 201, 203 (Iowa 1971). Yet, this court must be careful not to depart substantially from the express language of the exemption statute or to extend the legislative grant. Matter of Hahn, 5 B.R. 242, 244 (Bankr. S.D. Iowa 1980), citing Wertz v. Hale, 234 N.W. 534 (Iowa 1931) and Iowa Methodist Hospital v. Long, 12 N.W.2d 171 (Iowa 1944). In Matter of Mattice, 81 B.R. 504 (Bankr. S.D. Iowa 1987) aff'd on other grounds, United States of America v. Mattice, Case No. 88-22-W, slip op. (S.D. Iowa October 4, 1988), this court examined the meaning of "wages" under Iowa's exemption statute. The court stated:

Research revealed no Iowa cases interpreting the word 'wages' under Iowa's current exemption statute. However, the Iowa Supreme court has interpreted earnings' under prior versions of the exemption law. See, Johnson v. Williams, 235 Iowa 688, 17 N.W.2d 405 (1945) (interpreting former Iowa Code section 11763 (1939) which provided '[t]he earnings of a debtor, who is a resident of the state and the head of a family, for his personal services, or those of his family, at any time within ninety days next preceding the levy, are exempt from liability for debt.'). In that case, the court defined 'earnings' as 'the fruit or reward of labor--the price of services performed'. Id. 17 N.W.2d at 406 (citing Mitchell v. Chicago R.I. & P.R. Co., 138 Iowa 83,, 29' W. 622 1908)). A court from another

jurisdiction has suggested that 'earnings' has a broader application than 'wages'. Russell M. Miller Company v. Givan, 325 P.2d (Utah 1958), see also Note, State Wage Exemption Laws and the New Iowa Statute--A Comparative Analysis-, 43 Iowa L.Rev. 555, 564 (1958). Another court has defined wages as the compensation for personal services of some kind. Williams v. Sorenson, 106 Mont. 122, 75 P.2d 784, 787 (1938).

Id. at 508. Although the Iowa Supreme Court has yet to interpret the meaning of "wages" in the context of an exemption claim, it has construed the meaning of "wages" as the term is used in Iowa Code Chapter 20--the chapter governing public employee labor relations. Ft. Dodge Com. Sch. v. Pub. Employ. Rel. Bd., 319 N.W.2d 181 (Iowa 1982). There the court defined wages as "a specific sum or price paid by an employer in return for services rendered by an employee". Id. at 183. This court finds that such a definition should apply in the instant case. The concept of "wages" implies an employer-employee relationship and excludes the sums gained by those conducting their own businesses. 35 C.J.S. Exemptions section 47 (1960); 31 Am.Jur.2d Exemptions section 39 (1967).

The sums in question do not involve the price paid by an employer in return for services rendered by an employee. Rather, the sums derive from the debtors operating their own business. Perhaps the sums may have qualified as "earnings" under earlier versions of Iowa's exemption statute. However, the "earnings" exemption is no longer part of Iowa's exemption

scheme.² Accordingly, the court concludes that the Iowa legislature intended to narrow this exemption to only those sums paid by an employer to an employee.

CONCLUSION AND ORDER

WHEREFORE, based upon the aforementioned discussion, the court finds that the sums in question do not qualify as "wages" under Iowa Code section 627.6(9)(c).

THEREFORE, the trustees objection to property claimed exempt is sustained.

Signed and dated this 26th day of October, 1988.

LEE M. JACKWIG

CHIEF U.S. BANKRUPTCY JUDGE

² Section 627.6(9) provides that the exemption is in addition to limitations found in section 642.21(exemption from net earnings in a garnishment context) and section 537.5105 (limitation on garnishment in consumer credit code). "Earnings" in the former situation is defined as compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program". Iowa Code section 642.21(3)(a) (emphasis added).