

03-680-CD
HAROLD GUY BEVERIDGE vs. WILLIAM SHAW, et al.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD GUY BEVERIDGE :
VS. :
WILLIAM A. SHAW, CLERK OF COURT : No. 03-680-CD
AND DAVID S. MEHOLICK, COURT :
ADMINISTRATOR :
:

RULE RETURNABLE

AND NOW, this 9th day of May, 2003, upon
consideration of the foregoing Motion filed by the Defendant, a rule is hereby
issued on the Commonwealth to show cause, if any exists, why said Motion
should not be granted.

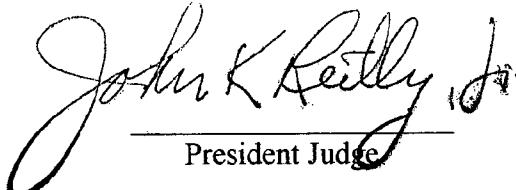
Rule Returnable for answer and argument thereon to be held on the
13th day of May, 2003, at 2:00 o'clock P. M. in
Court Room No. 1 of the Clearfield County Courthouse, Clearfield, PA.

BY THE COURT,

FILED

MAY 12 2003

William A. Shaw
Prothonotary/Clerk of Courts


John K. Reilly, Jr.
President Judge

FILED

MAY 12 2003

0/8:30/03

William A. Shaw
Prothonotary/Clerk of Courts

Clerk to DEPT

C/A

+
Clerk of Courts

HAROLD GUY BEVERIDGE plaintiff

v

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA
No 602/1998 19

WILLIAM SHAW, CLERK OF COURTS
CLEARFIELD COUNTY COURT, AND
DAVID S. MEHOLICK, COURT ADM.

FORMA PAUPERIS AFFIDAVIT

03-680-C

1. I am the (plaintiff) (defendant) in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the information below relating to my ability to pay the fees and costs is true and correct:

(a) Name: HAROLE GUY BEVERIDGE
Address: P.O.BOX 256 SCI WAYMART WAYMART PA.

Social Security Number: 385-46-4949

(b) Employment

If you are presently employed, state
Employer: no

Address: _____

Salary or wages per month: non

Type of work: _____

If you are presently unemployed, state
Date of last employment: 1997

Salary or wages per month: \$1,000.

Type of work: L.P.N.

(c) Other income within the past twelve months

Business or profession: no

Other self-employment: no

Interest: music, sports

Dividends: 0

Pension and annuities: 0

Social security benefits: 0

Support payments: see Leisure Vs. Leisure

FILED

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MAY 06 2003

William A. Shaw
Prothonotary
3 CCP/FF

Disability payments: 0

Unemployment compensation and supplemental benefits: 0

Workman's compensation: 0

Public assistance: 0

Other: 0

(d) Other contributions to household support

(Wife) (Husband) Name: _____

If your (wife) (husband) is employed, state Employer: _____

Salary or wages per month: 0

Type of work: _____

Contributions from children: 0

Contributions from parents: 0

Other contributions: _____

(e) Property owned

Cash: 0

Checking account: 0

Savings account: 0

Certificates of deposit: 0

Real estate (including home): 0

Motor vehicle: Make yamaha, Year 1978,
Cost \$1000., Amount Owed \$ _____

Stocks; bonds: 0

Other: 0

(f) Debts and obligations

Mortgage: 0

Rent: 0

Loans: 0

Other: 0

(g) Persons dependent upon you for support

(Wife) (Husband) Name: _____

Children, if any: *none at present*

Name: _____ Age: _____

Other persons:

Name: _____

Relationship: _____

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Date: 4-30-04

Harold G. Beverly Jr.
Petitioner

HAROLD GUY BEVERIDGE : IN THE COURT OF COMMON PLEAS
PLAINTIFF : OF CLEARFIELD , COUNTY, PA.
v. : DOCKET NO. 602/1998
WILLIAM SHAW, CLERK OF COURT :
Clerk of Courts of CLEARFIELD :
. Penna. and Court :
Administrator, DAVID S. :
MEHOLICK :
Respondents : 03-680-CD

MOTION FOR COURT ORDER
TO STOP ILLEGAL DEDUCTIONS
FROM INMATE'S PERSONAL ACCOUNT

Comes Now, HAROLD GUY BEVERIDGE Pro Se:, who respectfully
represents the following Motion For Court Order.

Petitioner appeared in Clearfield , County Criminal
Court, On or about October 12, 1999 and was sentenced on
the above captioned Information./Indictment, number to a
term of no less than Five years and no more than Ten
years, Plaintiff was also directed to pay fines, cost,
restitution in the amount of \$4,000

On or about June 2000, the Clerk of Clearfield
County, did via a letter to the Inmate Accounting Department
of SCI Waymart , state that Plaintiff, owed, Clearfield
County, Pennsylvania, in unpaid Costs, Fines and or
Restitution and requested that "if" Plaintiff is receiving
any work assignments in your institution, we would
appreciate the twenty-percent share of [Mr. Beveridge's],
his wages under Act 34. Pursuant to that request, the
accounting department began illegally and improperly
forwarding money deductions from [Mr. Beveridge's] inmate
account, irregadless of the source of those funds, Prison
Wages, Donations, Gifts, Prizes, Awards, etc. all contrary

to 42 Pa. C.S. §9728(b): 42 Pa. C.S. §8127(a), as Amended on June 18, 1998, P.L. 640 (Act 84), which allows for deductions from prisoner's "WAGES", for payments of fines, costs, and/or restitution. (42 Pa. C.S. §8127(a)(5)).

As indicated above, Section §8127 of the Judicial Code states that an individual's wages are generally exempt from any attachments, execution, or other process; however, an individual's "WAGES", may be attached. "upon and action or proceedings" for restitution and Costs, 42 Pa. C.S. 8127 (a):, When a defendant has defaulted in the payment of restitution and costs, the proper action or proceedings", is one under Section 9730(b) of the Sentencing Code (Default would occur if Plaintiff made no effort to pay the penalties or ceased paying after imposition of same): In Hollaway v. Lehman, 671 A 2d 1179 (Pa. Cmwlth Ct. 1996), that court stated that the money in an inmates Personal Account is private property that the Government cannot take without due process.

(1) If a defendant defaults in the payment of a fine, court costs or restitution, after imposition of sentence, the issuing authority or a senior judge or senior district justice appointed by the presiding judge for the purposes of this section may conduct a hearing to determine whether the defendant is financially able to pay...

(3) If the issuing authority, senior judge, or senior district justice determines that the defendant is without the financial means to pay the fine or costs immediately or in a single remittance, the issuing authority, senior judge or senior district justice may provide for payments in installments. in making the determination of the appropriate installments, the issuing authority, senior judge or senior district justice shall consider the defendant's financial resources, the defendant's ability to make restitution and reparations and the nature of the burden the payment will impose on the defendant.

42 Pa. C.S. §9730(b), cf. Pa.R.Crim. P. §706 setting forth the procedure governing a defendant's failure to pay fines or costs in a court case.

The Respondent's:" Clerk of Courts and Court Administrator of Clearfield County, Pennsylvania, never sought a Section 9730(b) hearing in this instance on Plaintiff' ability to pay any percentage, let alone 20% of his institutional wages towards unpaid restitution and costs.

In Addition, Section 9728(b) of the sentencing code does not authorize the clerk of any court to request twenty percent or any other amount as an installment payment on his/her own request.

It would certainly be necessary to hold a hearing to determine whether an inmates earnings have already been attached for purposes of a reason, such as Alimony, child support, unpaid rent or educational debts, See 42 Pa. C.S. § 8127(a), See: Hollaway, Supra, Moreover it must be noted that by statute, attachment of wages for support would have priority over attachment for restitution and court costs, See 42 Pa. C.S. §8127(b)

Plaintiff would present in addition that under the Pennsylvania Department of Corrections Administrative Directive DC-ADM 005, which was put into effect because of Act 84, does not give "ANYONE" in the Pennsylvania Department of Corrections", any independent authority to determine the amount of any inmate's installment payments.

Further, the Department of Corrections may only, after a proper hearing deduct a judicially determined percentage, after a proper hearing is held and upon receipt of an "Order Of Court", to collect such deductions from an Inmate's Wages Only, Not from that particular inmates total accumulated account by combining Gifts, Awards, Donations, Benefits, etc.

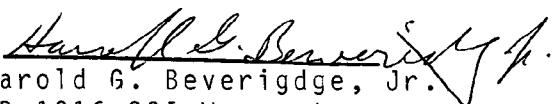
Further the Pennsylvania Department of Corrections, DC-ADM-005, effective October 16, 1998, only has one blank rule which is to collect 20% of accumulated monies in an inmates account, all of which is contrary to the laws and statutes of this Commonwealth regarding such payments being "ONLY" from "WAGES"

Plaintiff, respectfully requests, that this Court issue and Order to The Clerk of Clearfield County, and to the Pennsylvania Department of Corrections to cease taking or collecting any funds from the Plaintiff's inmate account, until such time as a hearing is held to determine this Plaintiff's ability to pay any amount or any particular percentage of his inmate prison wage earnings. All such requested are based on the Commonwealth Court case of Boofer v. Lisa Lotz and Patterson No 1721 C.D. 2001, Decided April 22, 2002, and Reconsideration Denied June 10, 2002

Plaintiff would also ask that an Order of Court issue, directing the Clerk of Courts of Clearfield County, to Reimburse the Plaintiff for all funds taken from his co-mingled inmate account, because there is at present no way to determine whether the percentage removed for the plaintiff's account were taken from "Inmate Wages Only" or from the inmates Co-mingled Account Funds.

Petitioner will Ever Pray

DATED 4/29 ~~MMXX~~ 2003


Harold G. Beveridge, Jr.
EB-1916 SCI Waymart

UNSWORN DECLARATION

I, HAROLD GUY BEVERIDGE, JR. , Plaintiff Pro Se in the above captioned matter hereby aver that the facts set forth are true and correct to the best of my knowledge information and belief and that any false statements made herein are subject to the penalties of perjury under 18 Pa. C.S.A. 4904.

DATED 4/29 ~~MMXX~~ 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

HAROLD GUY BEVERIDGE :

VS. : NO. 03-680-CD

WILLIAM A. SHAW, CLERK OF COURTS, :

and DAVID S. MEHOLICK, COURT :

ADMINISTRATOR :

O R D E R

NOW, this 13th day of May, 2003, upon consideration of Petitioner's Motion for Court Order to Stop Illegal Deductions from Inmate's Personal Prison Account in the above-captioned matter, it is the ORDER of this Court that said Motion be and is hereby granted.

BY THE COURT,

President Judge

FILED

JUN 05 2003

William A. Shaw
Prothonotary

FILED

013:00 B4
JUN 05 2003

William A. Shaw
Prothonotary

1 CC - Clerk of Courts
Fines & Costs
Dave Methotick
Piff

Probation