

Royal v. Walsh

Wyoming Supreme Court
2004 WY 96, 96 P.3d 1 · August 23, 2004

VOIGT, Justice.

[¶ 1] In their bankruptcy petition, Cleve Calvin Walsh and Jennifer Lynn Walsh (the Walshes) claimed an exemption of seventy-five percent of the funds garnished from their bank account. The bankruptcy trustee objected to the claimed exemption. The United States Bankruptcy Court, for the District of Wyoming, then certified to this Court the following questions, which we have agreed to answer:

1. Are funds derived from a debtor's wages and deposited into the debtor's bank account exempt from garnish

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ment under

Wyo. Stat. Ann. § 1

— 15— 408 or § 40-14-505(b) (LexisNexis 2003)?

2. If yes, under what circumstances?

FACTS

[¶ 2] On April 29, 2003, the Walshes filed a Chapter 7 bankruptcy petition. On the same date, a judgment creditor garnished their bank account. The money in the account — \$2,541.18—was derived solely from Mr. Walsh's personal service earnings with his employer. The trustee has objected to the Walshes' claim under Wyo. Stat. Ann § 1-15-408 (LexisNexis 2003) that seventy-five percent of the funds are exempt from garnishment. The pertinent portion of that statute reads as follows:

(a) A writ of post judgment garnishment attaching earnings for personal services shall attach that portion of the defendant's accrued and unpaid disposable earnings, specified in subsection (b) of this section. The writ shall direct the garnishee to withhold from the defendant's accrued disposable earnings the amount attached pursuant to the writ and to pay the exempted amount to the defendant at the time his earnings are normally paid. Earnings for personal services shall be deemed to accrue on the last day of the period in which they were earned or to which they relate. If the writ is served before or on the date the defendant's earnings accrue and before the same have been paid to the defendant, the writ shall be deemed to have been served at the time the periodic earnings accrue. If more than one (1) writ is served, the writ first served shall have priority. Notwithstanding any other provision of this subsection, an income withholding order for child support obtained pursuant to W.S. 20-6-201 through 20-6-222 shall have priority over any other garnishment.

STANDARD OF REVIEW

[¶ 3] The certified questions require this Court to determine the meaning of Wyo. Stat. Ann.' § 1-15-408. Our rules of statutory construction are well known and we will not repeat them at length. See *Pagel v.*

Franscell, 2002 WY 169, ¶9, 57 P.3d 1226, 1230 (Wyo.2002) (quoting *Wyoming Community College Com'n v. Casper Community College Dist.* 2001 WY 86, ¶¶16-18, 31 P.3d 1242, 1249 (Wyo.2001)). We

will, however, note a few particularly pertinent rules of construction. Our primary concern is legislative intent, which intent must be ascertained from the words of the statute. *Id.* Construction is unnecessary where statutory language is unambiguous. *Id.* The intent of an unambiguous statute is determined from the ordinary and obvious meaning of the words used. In *re Wilson*, 2003 WY 105, ¶6, 75 P.3d 669, 672 (Wyo.2003) (quoting *Wyoming Dept. of Transp. v. Haglund*, 982 P.2d 699, 701 (Wyo.1999)). “ ‘When the words are clear and unambiguous, a court risks an impermissible substitution of its own views, or those of others, for the intent of the legislature if any effort is made to interpret or construe statutes on any basis other than the language invoked by the legislature.’ ” *Pagel*, 2002 WY 169, ¶9, 57 P.3d at 1230 (quoting *Wyoming Community College Com’n*, 2001 WY 86, ¶16, 31 P.3d at 1249). “ ‘A statute is clear and unambiguous if its wording is such that reasonable persons are able to agree on its meaning with consistency and predictability.’ ” *Pagel*, 2002 WY 169, ¶9, 57 P.3d at 1230 (quoting *Wyoming Community College Com’n*, 2001 WY 86, ¶17, 31 P.3d at 1249).

[¶ 4] In addition to these general rules of construction, we also note more specifically that courts are not free to ignore any word the legislature has used. *Keats v. State*, 2003 WY 19, ¶28, 64 P.3d 104, 113 (Wyo.2003). And finally, “ ‘it is a universal rule that courts will not enlarge, stretch, expand or extend a statute to matters not falling within its express provisions.’ ” *Knowles v. Corkill*, 2002 WY 119, ¶19, 51 P.3d 859, 865 (Wyo.2002) (quoting *Lo Sasso v. Braun*, 386 P.2d 630, 632 (Wyo.1963)).

DISCUSSION

[¶ 5] It is impossible reasonably to read the words “accrued and unpaid” in Wyo. Stat. Ann. § 1-15-408(a) as meaning anything other than money the debtor has earned but has not yet received. This is ³ especially true inasmuch as the entire subsection is concerned with an employer’s responsibilities when served with a writ of garnishment. For example, the garnishee is to “withhold” the amount attached before paying the exempted amount “at the time ... earnings are normally paid.” Wyo. Stat. Ann. § 1-15-408(a). That is not language directed to a bank holding a debtor’s deposits. Further, the statute requires that income withholding orders for child support, which orders attach to “payments” due to an obligor, continue to have priority. See . Wyo. Stat. Ann. § 20-6-201 et seq. (LexisNexis 2003). Clearly, this is a statutory construct designed to reach monies not yet paid to the debtor.

[¶ 6] The same is true of Wyo. Stat. Ann. § 40 — 14—505(a)(ii) (LexisNexis 2003), which concerns garnishments resulting from consumer credit transactions. Under that statute, certain amounts are exempt from garnishment where “the earnings of an individual are required to be withheld for payment of a debt.” (Emphasis added.) The legislative intent is clear on the face of both Wyo. Stat. Ann. § 1-15-408(a) and Wyo. Stat. Ann. § 40 — 14—505(a)(ii)—these statutes deal with unpaid wages or other earnings. They do not deal with wages or other earnings that have made their way into a debtor’s bank account.

[¶ 7] .While it may seem illogical to extend an exemption to a debtor only until such time as he or she has earnings “in hand,” it is not this Court’s job to say that the law should be something other than it is. Rather, it is this Court’s job only to determine legislative intent from the law as it is. And as it is, the law now clearly limits this exemption to “accrued and unpaid” earnings.

CONCLUSION

[¶ 8] We answer the first certified question in the negative, making it unnecessary to answer the second question.

LEHMAN, Justice, filed a dissenting opinion with which HILL, Chief Justice, joined.