

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA	: NO. 85-10,547; 85-11,110
	: 85-11,235; 86-10,164
	: 86-10,440; 86-10,461
vs.	: 87-10,411; 92-11,646
	: 95-10,213; 95-10,788
STEPHEN LYONS,	:
Defendant	: Motion to Quash Costs & Fines
	: Request to Stop Act 84 Deductions

OPINION AND ORDER

Before the Court is Defendant’s Amended Motion to Quash Court Costs and Fines and Request to Stop Act 84 Deductions, filed November 6, 2002. Argument on the motion was heard November 22, 2002.

Defendant is currently incarcerated at SCI Somerset and in the instant request to stop Act 84 deductions he seeks to terminate the automatic 20% withholding which is placed on any amounts deposited to his inmate account, including wages earned. It appears the deductions are made by the institution, forwarded to the Cost Clerk’s office, to collect unpaid costs and fines. Defendant argues that such deductions may not be made without a finding by the Court of his ability to pay said costs and fines. The Court agrees.

This same issue was raised in Boofer v Lotz, 797 A.2d 1047 (Pa. Cmwlth. 2002). There the Court held that a 20% deduction from an inmate’s prison account to satisfy costs and fines was inappropriate without a hearing to determine the inmate’s ability to pay. The wage attachment will therefore be vacated pursuant to Boofer

At argument, the Court received evidence from Defendant regarding his ability to pay and considering the circumstances, the Court finds that Defendant is currently, while incarcerated, unable to make regular payments toward his costs and fines. Collection will

therefore be suspended at this time.<sup>1</sup>

In his Motion to Quash Costs and Fines, Defendant seeks to eliminate any costs and fines associated with those criminal actions wherein he has served his maximum sentence. Pursuant to 42 Pa. C.S. Section 9728 (c), however, a judgment for such costs and fines may exceed the maximum term of incarceration. The Court will therefore deny this request.

ORDER

AND NOW, this 26<sup>th</sup> day of November, 2002, for the foregoing reasons, Defendant's Motion to Quash Court Costs and Fines is hereby denied and his Request to Stop Act 84 Deductions is hereby granted. SCI Somerset is directed to terminate their Act 84 deductions on Defendant's inmate account.

By the Court,

Dudley N. Anderson

cc: DA  
Stephen Lyons, ES-7456, SCI Somerset, 1600 Walters Mill Road, Somerset PA 15510  
Tom Heap, Collections Supervisor  
Warden, SCI Somerset, 1600 Walters Mill Road, Somerset PA 15510  
Gary Weber, Esq.  
Hon. Dudley N. Anderson

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<sup>1</sup> Defendant seeks to be reimbursed for the amounts already wage attached, and asks that those amounts be redirected to the Domestic Relations Office for payment toward his back child support. While the Court will vacate the wage attachment, no reimbursement will be ordered, inasmuch as Defendant did have an obligation to pay the amounts withheld.