

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

JERARD BRADLEY	:	
Petitioner	:	
	:	NO. 90-10,292
	:	90-10,935
v.	:	
LYCOMING COUNTY COLLECTIONS	:	
OFFICE	:	
Respondent	:	

PETITION FOR STAY OF EXECUTION OF JUDGMENT TO STOP ACT 84
DEDUCTIONS

OPINION AND ORDER

Before the court is Plaintiff's Petition for Stay of Execution of Judgment which was filed 27 May, 2003 which is actually a request to stop Act 84 deductions. A hearing on the Motion was heard on Friday, 18th day of July, 2003.

Defendant is currently incarcerated at SCI Huntingdon and in the instant request to stop Act 84 deductions, he seeks to terminate the automatic twenty (20) percent withholding which is based on any amounts deposited to his inmate account including wages earned. It appears that the deductions are made by the institution, forwarded to the Lycoming County's Cost Clerk's Office for the purpose of paying unpaid fines and costs. Defendant argues that such deductions may not be made without a finding by the court of his ability to pay the costs and fines. This court agrees.

The same issue was raised in *Boofer v. Lotz*, 797 A2nd 1047 (PA Cmwlth. 2002). There the court held that a twenty (20) percent deduction from an inmate's prison account to satisfy costs and fines were inappropriate without a hearing to determine

an inmates ability to pay. The wage attachment will therefore be vacated pursuant to Boofer.

At hearing, the court received evidence from Defendant regarding his ability to pay and in considering the circumstances, the court finds the Defendant is currently, while incarcerated, unable to make regular payments toward his costs and fines. Collection will therefore be suspended at this time.

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O R D E R

AND NOW, this 21st day of July, 2003, for the foregoing reasons Defendant's Motion to Stop Act 84 deductions is granted. SCI Huntingdon is directed to terminated their Act 84 deductions on Defendant's inmate account.

BY THE COURT

Clinton W. Smith, PJ

Copies to:

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