

Rzeplinskis filed a Claim for Exemption on September 30, 2004. They contend that the contents of their accounts with West Branch are exempt from execution. Rzeplinskis argue that the contents of the accounts are social security proceeds.

Two evidentiary hearings were held regarding the Claim for Exemption. The first was held on February 14, 2005. The second was held on March 18, 2005. Beneficial and Rzeplinskis attended both hearings. West Branch did not attend either hearing despite apparently having notice of them. From these evidentiary hearings, the following facts have been deduced.

Rzeplinskis had three accounts with West Branch. Account number 11726-00S and number 11837-00S respectively were savings accounts, while account number 11726-20S was a checking account. Beneficial introduced a packet of documents, which contained records from West Branch indicating the activity of Rzeplinskis' accounts. The packet was admitted into evidence as Exhibit B. The records show that deposits were noted as follows: "US TREASURY 303," "AUTO TRAKK S," and "(WMRX)."

The notation "US TREASURY" indicates a deposit of social security proceeds. "AUTO TRAKK S" indicates a deposit of Jaclyn Rzeplinski's paycheck. The notation "(WMXR)" indicates a deposit of loan funds received from Jaclyn Rzeplinski's mother.

The note to Pa.R.C.P. 3123.1 lists the major exemptions of property from execution. Included in that list is an exemption pursuant to 42 U.S.C. §407 for social security benefits.¹ The evidence produced demonstrates that only the amounts in the account numbered 11837-

¹ "The right of any person to any future payments under this title [42 USCS §§ 401 et seq.] shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or the rights existing under this title [42 USCS §§ 401 et seq.] shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law." 42 U.S.C. §407(a).

00S are exempt from execution. The records indicate that the money deposited in that account was from social security proceeds. This is indicated by the "US TREASURY" notations found in the records. Accordingly, the amounts held in account number 11837-00S are exempt from execution by Beneficial.

The amount held in accounts number 11726-00S and 11726-20S are not exempt from execution. The records indicate that the amounts in account number 11726-00S were transferred from account number 11726-20s. The records indicate that the amounts in account number 11726-20S were deposits from Jaclyn Rzeplinski's paycheck and loans from her mother. As such, these deposits are not exempt from execution as being social security proceeds.

Accordingly, the claim for exemption is granted in part and denied in part.

ORDER

It is hereby ORDERED that the Claim for Exemption of Defendants Jaclyn E. and Joseph Rzeplinski filed September 30, 2004 is GRANTED IN PART and DENIED IN PART.

The claim is GRANTED in that the amounts held in the account numbered 11837-00S at West Branch Valley Credit Union are social security proceeds and exempt from execution.

It is further ordered that any deposits that are indicated in the account records as "US TREASURY 303" are exempt as social security proceeds.

The claim is DENIED in that the amounts held in the account numbered 11726-00S and the account numbered 11726-20S are not social security proceeds and are not exempt from execution.

BY THE COURT:

William S. Kieser, Judge

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Christian J. Kalas, Esquire
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