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Platte River Ins. Co. v. Jackson, 137 Nev. Adv. Op. 82 (Dec. 23, 2021)¹

DEBTOR RIGHTS: THE WILDCARD EXEMPTION CAN BE STACKED WITH ANOTHER
EXEMPTION UNDER NRS 21.090(1)

Summary:

The Nevada Supreme Court considered whether a judgment debtor can claim a “wildcard exemption” from execution under NRS 21.090(1)(z) to protect earnings not already exempted by NRS 21.090(1)(g). The Court noted that the phrase “not otherwise exempted” applied to personal property, including earnings, that were not wholly exempt under NRS 21.090. Therefore, the Court affirmed the holding of the district court that the wildcard exemption can be used to protect *any* personal property, including enumerated property, that is not fully exempted by another subsection.

Background:

After obtaining a judgment against Susan Jackson and her husband Lance, Platte River Insurance Company tried to collect the judgment by garnishing Susan’s earnings. In response, Susan claimed two exemptions for her earnings: (1) the “earnings exemption” that protects seventy-five percent of her after-tax wages;² and (2) the “wildcard exemption” that can be used to exempt up to \$10,000 of non-exempt personal property.³ Platte River Insurance Company argued that the “wildcard exemption” did not apply to Susan’s wages.

The district court held that Susan’s non-exempt wages were considered personal property, so the wildcard exemption applied to up to \$10,000 of Susan’s wages not protected under the earnings exemption. The district court noted that Platte River could collect on Susan’s

¹ By Caitlan McMasters.

² NEV. REV. STAT. § 21.090(1)(g) (2021).

³ NEV. REV. STAT. § 21.090(1)(z) (2021).

non-exempt income if it exceeded \$10,000 during the 180-day garnishment period, but otherwise granted Susan's claims of exemption. Platte River appealed this decision.

Discussion:

The language of NRS 21.090(1)(z) unambiguously permits a debtor to use the wildcard exemption on nonexempt earnings.

The purpose of NRS 21.090 is to protect the debtor while also allowing the creditor to collect what is owed to them.⁴ NRS 21.090(1)(z) is unambiguous because it has only one reasonable interpretation, so the Court must look to its plain meaning. The plain terms of NRS 21.090(1)(z) suggest that the statute protects *any* personal property that is not otherwise protected from seizure. The Court noted that it had not yet answered whether this statute can be used to supplement another enumerated exemption.

The phrase "not otherwise exempt" refers to attachable, rather than enumerated, property.

Platte River argued that the wildcard exemption cannot apply to another type of property enumerated in the statute. The Court is unpersuaded by this argument because the statute distinguishes between exempt and nonexempt property, not enumerated.

In the context of NRS 21.090, exempt and nonexempt personal property is not dependent on if the property is enumerated because some enumerated property is only partially exempt. For example, under the earnings exemption, only 75 percent of a person's disposable income is exempt, leaving the other 25 percent as attachable. Therefore, Platte River's interpretation would require the Court to consider enumerated property fully exempt under the wildcard exemption, but only partially exempt under a different exemption. The plain language of the statute allows the wildcard exemption to apply to any attachable personal property, including enumerated property that is not already fully exempt under NRS 21.090.

⁴ Weinstein v. Fox (*In re* Fox), 129 Nev. 377, 379–80 (2013); *see* NEV. CONST. art. 1, § 14.

The statutory definition of personal property includes earnings.

The phrases “[a]ny personal property” and “including, without limitation” within the wildcard exemption are construed broadly to include all property, regardless of whether it is expressly listed in the statute. The words “without limitation” indicate that the legislature did not intend to exclude unlisted types of personal property. Because earnings fall within the definition of personal property, the wildcard exemption can be used to protect up to \$10,000 of earning not covered under another exemption.

The use of the wildcard exemption on nonexempt earnings does not produce absurd results.

Platte River argued that if the Court affirmed the district court’s interpretation of NRS 21.090, it would produce unintended and unreasonable results (administrative burdens, delay, etc.). The Court stated that the legislature’s decision to include the wildcard exemption was not absurd. Further, the Court reasoned that the possible negative results listed by Platte River do not interfere with the legislature’s intent of protecting debtors and their livelihood and, therefore, do not warrant the Court not relying on the statute’s plain meaning.

Conclusion:

The Court agreed with the lower court’s holding that a debtor can apply the wildcard exemption toward any personal property, including earnings. Thus, the Nevada Supreme Court ultimately affirmed the district court’s order to grant Susan’s claims of exemption.