

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICAN,
Plaintiff,

vs.

No. 03-10151-01-JTM

MAURICE FRANKLIN, JR.,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on two motions relating to defendant Maurice Franklin's prison trust account. The government has moved for an order authorizing payment from the account to meet the restitution awarded in the judgment. (Dkt. 204). The court ordered Franklin to show cause why the account should not be so charged. (Dkt. 205). Franklin subsequently responded, and submitted his own motion to retrieve funds from the account. (Dkt. 209). For the reasons provided herein, the government's motion is granted; the defendant's motion is denied.

Franklin's response and motion contend that he has good and valuable purposes for the funds in the account, and otherwise seeks to reargue the restitution judgment itself. But the court is without jurisdiction to modify the restitution judgment under 18 U.S.C. § 3664(o). And Franklin's claim that he has good and valuable purposes for the funds cannot overcome the explicit provision in the judgment directing that "not less

than 50% of the funds deposited each month into the inmate's trust fund account" be used to pay the restitution judgment. (Dkt. 144). Such funds properly belong to the victims pursuant to 18 U.S.C. § 3664(n), which provides:

If a person obligated to provide restitution, or pay a fine, receives substantial resources *from any source*, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.

(Emphasis added).

At the time of his motion, Franklin continued to owe some \$103,484 in restitution. The court finds that the government's motion should be granted, and the court hereby directs and orders the Bureau of Prisons to turn over the funds in the amount of \$8,059.68 in defendant Maurice Franklin, Jr.'s inmate trust account to the Clerk, United States District Court, at 401 N. Market, Room 204, Wichita, Kansas, to be applied to defendant's restitution obligation.

IT IS SO ORDERED this day of February, 2020, that the government's Motion for Order (Dkt. 204) is granted; defendant's Motion to Retrieve Funds (Dkt. 209) is denied.

s/ J. Thomas Marten
J. Thomas Marten, Judge