

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08-20003-JWL
)	
ROBERT HOLCOMB,)	
)	
Defendant.)	

ORDER

Pro se defendant Robert Holcomb has filed a motion (**doc. 46**) for hearing regarding the garnishment of certain property. The presiding U.S. District Judge, John W. Lungstrum, referred this matter to the undersigned U.S. Magistrate Judge, James P. O'Hara (doc. 48). For the reasons discussed below, Mr. Holcomb's motion for a hearing is granted, and his objection to the garnishment is retained under advisement.

Mr. Holcomb pleaded guilty to robbing the Gold Bank in Prairie Village, Kansas in violation of 18 U.S.C. § 2113(a) (docs. 19–20). On June 25, 2008, he was sentenced to seventy months imprisonment and ordered to pay \$7,658 in restitution and a \$100 special assessment (doc. 22). To date, Mr. Holcomb has not made a single restitution payment.

On August 6, 2012, the United States filed an application for a writ of continuing garnishment (doc. 39) directed to Judy Yates. The writ (doc. 42) was issued on the same day, and Ms. Yates filed an answer (doc. 45) on August 14, 2012. In her answer, Ms. Yates, the personal representative of the estate of James M. Yates, identified that Mr.

Holcomb has a beneficial interest in the estate of James M. Yates valued at approximately \$10,350.90. On August 24, 2012, Mr. Holcomb filed the present motion objecting to the garnishment and requesting a hearing on the matter.

Mr. Holcomb contends that the property at issue is exempt from garnishment under 18 U.S.C. § 3613. When, as here, a plaintiff is proceeding pro se, the court construes his pleadings “liberally” and holds his complaint “to a less stringent standard than formal pleadings drafted by lawyers.”¹ Thus, although Mr. Holcomb fails to identify the specific exemption he considers applicable, he has “alleg[ed] sufficient facts on which a recognized legal claim could be based.”² Accordingly, the court finds that a hearing is warranted in this matter.

This matter is set for a hearing on **Tuesday, October 9, 2012, at 1:00 p.m.** in Courtroom 236 before U.S. Magistrate Judge James P. O’Hara. Pursuant to 28 U.S.C. § 3205(c)(5), a copy of this order shall be mailed to all parties.

IT IS SO ORDERED.

Dated September 12, 2012, at Kansas City, Kansas.

s/ James P. O’Hara
James P. O’Hara
U. S. Magistrate Judge

¹ *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (internal quotation marks and citations omitted).

² *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir.1991).