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Alabama court protects paychecks from debt collectors >

Updated Jan 17, 2020; Posted Jan 15, 2020



The Heflin-Torbert Judicial Building, also known as the Alabama Supreme Court, Montgomery (AL.com file) Julie Bennett

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By **Sarah Whites-Koditschek | swhites-koditschek@al.com**

Low-income Alabamians are now allowed to protect a portion of their wages from debt collection, thanks to a new appeals court ruling.

THE ALABAMA COURTS HAVE RULLED THAT LOW-INCOME ALABAMIANS CAN PROTECT A PORTION OF THEIR WAGES FROM DEBT COLLECTION, THANKS TO A NEW APPEALS COURT RULING.

Home of garnishment, effectively eliminating protection from debt collectors.

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Farah Majid, an attorney for Legal Services Alabama which challenged the constitutionality of the law, called the decision a win. "Putting food on your table, and being able to, you know, not be homeless and have transportation to and from work, those things are important," she said.

She said that low-income people must avoid destitution and unemployment in order to be able to pay their debts. She said millions of dollars in wages may be at stake, as her staff has dealt with hundreds of cases.

The Urban Institute, a Washington D.C. based policy group reports that 39 percent of Alabamians have debt in collection.

But Michael Godwin, the attorney representing the plaintiffs in the case, said he was disappointed with the decision. "It isn't that far off from theft," he said of failing to repay a debt.

Businesses shouldn't be obligated to act like charities, he said, and contracts should be enforceable.

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The case, Renter's Realty vs. Ieisha Smith, began as an eviction in Madison County in north Alabama. Legal Services Alabama challenged Renter's Realty's garnishment of Smith's paycheck following her eviction. Around the time her wages were garnished, Smith lost her job and became homeless.

Under the 2015 state law, debt collectors were allowed to garnish up to 25 percent of each paycheck, the limit set by federal law.

In its challenge, Legal Services Alabama argued that wages are personal property and that the state constitution protects up to \$1,000.

Renter's Realty argued that wages should not be considered personal property and that the \$1,000 exemption should not apply to every single paycheck, which would effectively allow anyone who received less than \$1,000 per check to avoid any garnishment.

Godwin says the group may appeal the decision to the Alabama Supreme Court.

He said the 2015 law came about as a compromise between Alabama advocates and debt collectors. According to Godwin, the ruling leaves debt collectors without a clear road map for garnishing wages.

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Without the ability to garnish wages, businesses are less likely to extend credit to consumers, he said.

"The sky will not fall if Defendants are required to pay some of their income towards



Home The Alabama Apartment Association filed an amicus brief in support of Renter’s

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News In order to claim the exemption when being sued for wage garnishments, Alabamians must take pro-active steps such as filling out a form with the court. Majid acknowledged that some people may not do this and will go on having a quarter of their paycheck garnished.

Sports The law allows employees to protect the first \$1,000 per paycheck, regardless of whether an employee is paid every week or every two weeks. So low-income employees paid every two weeks may have less protection than those paid weekly.

Submit an Obituary She said wage garnishments create a negative domino effect in people’s lives and hurt their ability to meet their obligations.

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“When you're losing your paycheck to pay old debt, it's the people that you currently owe money to that that really get shafted,” she said.

Godwin said he’s not sure how widespread the impact of the ruling will be, but he believes it will hurt small companies.

“If you ask for a service that is provided and you don’t pay, in some ways, regardless of the reason, you know, you’re hurting business.”

Corrected on Jan. 17, 2020 at 1:36 pm to reflect Smith’s financial status.

Alabamians have little protection from asset seizures for unpaid debts, report finds



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