

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

COPY

IN RE:

Sarah A. Allen

Debtor.

Case No. 00-82140 C-7D

ORDER

THIS MATTER came on for hearing before the undersigned bankruptcy judge on September 14, 2000, on the Motion by Debtor to Avoid Judicial Lien. Appearing before the court was Clyde A. Wooten, attorney for the Debtor. After hearing the arguments of counsel and reviewing the file, the Court makes the following:

FINDINGS OF FACT

1. In the motion, the Debtor represents that Thomas Hall has a Judgment Lien on certain personal property of the Debtor, which property is listed in her Bankruptcy Petition, and impairs the exemptions to which Debtor is entitled under North Carolina General Statutes 1C-160 (a)(1), 1-C 160 (a)(2), 1-C160 (a)(4), and 1-362, which impairs the wages of the Debtor necessary for the support of family.
2. The Debtor further represents in the motion that the lien held by Thomas Hall impairs an exemption which the Debtors would have been entitled under NCGS Chapter 1-C, Section 160, et. seq., and 1-362 and that the lien is a non possessory, non purchase money lien on household goods of which is avoidable under Chapter 7 of the Federal Bankruptcy Statutes.
3. The "lien" referred to by the Debtor is a "Writ of Continuing Garnishment

(Wage)" which was entered by the Deputy Clerk of Court for the Third District Court, Murray Department, Salt Lake County, State of Utah on July 18, 2000 in a case captioned Thomas Hall v. Sarah S. Allen (Defendant) and Durham Public Schools (Garnishee), case no. 000200959.

CONCLUSION

The Writ of Continuing Garnishment from the State of Utah is not a binding lien against the Debtor's wages. It does not appear to the court that the Garnishee, Durham Public Schools, is amenable to the jurisdiction of the Utah court for these purposes. Thus, at this time, there is no valid lien to avoid as the Debtor requests.

Therefore, IT IS ORDERED, ADJUDGED AND DECREED that the Writ of Continuing Garnishment is not enforceable in North Carolina and does not represent a lien against the personal property of the Debtor.

This the 13 day of October, 2000.

CATHARINE R. CARRUTHERS

Catharine R. Carruthers
United States Bankruptcy Judge