

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:) In Proceedings
) Under Chapter 7
RUSSELL JAMES WOOD and)
ALMA LEE WOOD,) No. BK 87-50528
)
Debtor(s).)

MEMORANDUM & ORDER

On October 14, 1987 Russell and Alma Wood filed a petition under Chapter 7 of the Bankruptcy Code. Russell Wood ("debtor"), a physician who is disabled and cannot work, claims as exempt certain disability benefits that he receives under various policies of disability insurance. The benefits total \$11,000.00 per month.

Debtor claims this exemption pursuant to Ill.Rev.Stat. ch. 110, ¶12-1001(g)(3), which provides:

The following personal property, owned by the debtor, is exempt from judgment, attachment or distress for rent....

(g) The debtor's right to receive....

(3) a disability, illness, or unemployment benefit....

The Trustee objects to the exemption, contending that paragraph 12-1001(g)(3) does not apply to disability benefits received under insurance policies purchased by a debtor, but rather applies only to benefits paid by others, such as workers' compensation or social security disability benefits. The Trustee contends that debtor's exemption can be claimed only under paragraph 12-1001(g)(5), which allows an exemption for "a payment under any pension plans or contracts, to the extent reasonably necessary for the support of the

debtor and any dependent of the debtor...." Ill.Rev.Stat. ch. 110, ¶12-1001(g)(5). The Trustee further contends that debtor has not established that \$11,000.00 per month in disability benefits is "reasonably necessary" for his support, as required by paragraph 12-1001(g)(5).

The Court disagrees with the Trustee's interpretation of paragraph 12-1001(g)(3), which allows an exemption for "a disability benefit." There is no express limitation on the type of disability benefit that may be claimed as exempt, nor has the Trustee cited any legislative history or case law supporting his interpretation of the statute. It is well established that "personal property exemption statutes should be liberally construed in order to carry out the legislature's purpose in enacting them--to protect debtors." Matter of Barker, 768 F.2d 191, 196 (7th Cir. 1985). "[W]here an exemption statute might be interpreted either favorably or unfavorably vis-a-vis a debtor, we should interpret the statute in a manner that favors the debtor." Id. For these reasons, the Court finds that debtor is entitled to claim as exempt the subject disability benefits without limitation as to amount.

Accordingly, IT IS ORDERED that the Trustee's objection to exemption is OVERRULED.

U.S. BANKRUPTCY JUDGE

ENTERED: January 3, 1990