

**IN THE UNITED STATES OF AMERICA
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:22-CR-00037-MR-WCM**

UNITED STATES OF AMERICA)	
Plaintiff,)	
)	
v.)	
)	ORDER OF CONTINUING
JAMES RALPH BRADY,)	GARNISHMENT
Defendant,)	
)	
and)	
)	
EASTERN BAND OF CHEROKEE INDIANS,)	
Garnishee.)	
_____)	

This matter is before the Court on the Answer of Garnishee Eastern Band of Cherokee Indians (the “Tribe”) (the “Answer,” Doc. 45), the Government’s Response to Answer of Garnishee (Doc. 46), and the Government’s Motion for Order of Continuing Garnishment (Doc. 47).

On January 26, 2023, the Honorable Martin Reidinger, Chief United States District Judge, sentenced Defendant to 48 months of imprisonment followed by 5 years of supervised release. Doc. 33. As part of the Judgment, Defendant was ordered to pay a \$100.00 assessment and restitution in the amount of \$10,000.00.

Subsequently, the Government filed an Application for Writ of Continuing Garnishment (Doc. 40) and, on November 27, 2023, the Court

issued a Writ of Continuing Garnishment as to the Tribe. Doc. 42.

On December 14, 2023, the Tribe filed an Answer (Doc. 45), which sets forth objections and defenses to the Government's right to garnish, and requests that the Writ of Continuing Garnishment be quashed. In particular, the Tribe argues that, pursuant to Section 16-C(d) of the Cherokee Code, the per capita distribution of net gaming revenues is exempt from creditors, except for (1) child support, or (2) debts to the Tribe. The Tribe recognizes previous authority in this district finding that the Tribe's sovereign immunity has been abrogated by the Federal Debt Collection Procedure Act but suggests that, as a matter of comity and in the interest of the sound administration of justice, any garnishment order in this action should be enforced through the Cherokee Court to ensure proper allocation of garnishment distributions.

However, no legal authority has been cited in support of the Tribe's request, and the undersigned finds that the funds sought to be garnished in this case should be collected, maintained, and distributed by and through the Government and the Clerk of Court in the usual course.

IT IS THEREFORE ORDERED THAT:

1. The Tribe's objections, defenses, and set offs are **OVERRULED** and its motion to quash is **DENIED**;
2. The Government's Motion for Order of Continuing Garnishment (Doc. 47) is **GRANTED**; and
3. An Order of Continuing Garnishment is **ENTERED** in the amount of \$10,100.00, which is the balance of Defendant's debt as calculated through March 27, 2023, according to the Government. This Order shall attach to each *per capita* distribution of gaming revenues, and all such revenue shall be garnished in favor of the United States until Defendant's debt is paid in full.

Signed: March 22, 2024



W. Carleton Metcalf
United States Magistrate Judge

