

STATE OF MICHIGAN  
COURT OF APPEALS

---

DEPARTMENT OF TREASURY,

Plaintiff-Appellant,

v

ROBIN T. WOOD and MARY E. WOOD,

Defendants-Appellees,

and

AUTO BODY CREDIT UNION,

Defendant.

---

UNPUBLISHED

June 3, 2010

No. 289120

Court of Claims

LC No. 08-000648-CZ

Before: BANDSTRA, P.J., and FORT HOOD and DAVIS, JJ.

MEMORANDUM.

Plaintiff, the State Treasurer, appeals orders entered by the trial court denying it access to funds already disbursed from a General Motors pension plan governed by the Employee Retirement Income Security Act (ERISA) into an account held by defendant Mary Wood (Mary). The pension benefits had been accrued by defendant Robin Wood (Robin) who is presently a prisoner at a state correctional facility and who directed the pension plan to make payments into Mary's account. Plaintiff sought a recovery from the account under the State Correctional Facility Reimbursement Act (SCFRA), MCL 800.401 *et seq.*<sup>1</sup>

Although the trial court's reasoning in denying plaintiff access to Mary's account is sparse, reliance was apparently primarily placed on the ERISA provision that "[e]ach pension plan shall provide that benefits provided under the plan may not be assigned or alienated." 29 USC 1056(d)(1). To the extent the trial court relied on that provision, it was in error.

---

<sup>1</sup> We note that the trial court's orders did not dispose of plaintiff's request that Robin be required to notify General Motors of his only legal address at the correctional facility and direct that future pension funds be deposited into his prisoner account. Clearly, plaintiff is entitled to that relief and it should be immediately granted upon remand. *State Treasurer v Sprague*, 284 Mich App 235; 772 NW2d 452 (2009).

Construing various federal precedents applicable to the issue, our Supreme Court has determined that “the statute protects against the alienation or assignment of rights against *the plan itself*,” meaning that no protection is afforded regarding pension benefits that have already been paid. *State Treasury v Abbott*, 468 Mich 143, 157-158; 660 NW2d 714 (2003) (emphasis in original).

We reverse the orders entered by the trial court. We remand for the trial court to determine whether SCFRA entitles plaintiff to seek payment from Mary’s account and, if so, whether, apart from ERISA, there is any valid reason why plaintiff’s claim should be denied, in whole or in part. We do not retain jurisdiction.

/s/ Richard A. Bandstra

/s/ Karen M. Fort Hood

/s/ Alton T. Davis