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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
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10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 IRMA MIGUEL,
14 Defendant and Judgment Debtor.

Case No. 1:17-mc-00013-DAD-SAB

**FINDINGS AND RECOMMENDATIONS
FOR FINAL ORDER OF CONTINUING
GARNISHMENT**

15 STANISLAUS COUNTY,
16 (and its Successors and Assignees)
17 Garnishee.
18

Criminal Case No.: 1:96-CR-05110-REC

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20 Currently pending before the Court is the United States' request for findings and
21 recommendations for a final order of continuing garnishment against the property and account(s)
22 of the Defendant and Judgment Debtor, Irma Miguel ("the request"), which was referred to the
23 undersigned pursuant to Local Rule 302(c)(7). The Court, having reviewed its files and the
24 request, and good cause appearing therefrom, issues the following findings and
25 recommendations.

26 The Court finds as follows:

27 1. On August 26, 1996, the Court convicted and sentenced Defendant Irma Miguel
28 in criminal case number 1:96-cr-5110-REC. The Judgement ordered that Defendant pay a \$50.00

1 special assessment and \$224,655.62 in restitution. See U.S.A. v. Miguel, 1:96-cr-5110-REC,
2 ECF Nos. 5 & 6.

3 2. To collect the restitution order, the United States filed an application for writ of
4 garnishment on February 16, 2017, in the instant case. (ECF No. 3.)

5 3. As of February 15, 2017, Irma Miguel owed \$224,307.42 in restitution and
6 surcharge. (ECF No. 3 at 2.)

7 4. The Clerk issued a writ of garnishment, as well as the Clerk's notice and
8 instructions to judgment debtor on February 17, 2017. (ECF Nos. 4, 5.)

9 5. On February 17, 2017, the United States served the Garnishee and Judgment
10 Debtor with a copy of the Writ of Garnishment and its attachments. The Judgment Debtor was
11 notified of her right to a hearing and object to the answer and/or to claim exemptions. (ECF No.
12 6). Specifically, the notice advised the Judgment Debtor that she had twenty days (20) days
13 from the date the garnishee served its answer to file a request for hearing pursuant to 28 U.S.C. §
14 3205(c)(5), and/or to assert a claim of exemption.

15 6. Garnishee, Stanislaus County, served its acknowledgment of service and answer of
16 garnishee (the "answer") to the writ on March 2, 2017. In its answer, the Garnishee identifies the
17 Judgment Debtor as a wage-earning employee and states it served the Judgment Debtor on
18 March 2, 2017, with a copy of the answer. (ECF No. 8).

19 7. No request for hearing was filed, and no claims of exemptions were raised by the
20 Judgment Debtor, as set forth in 28 U.S.C. § 3014(b)(2).

21 Based on the foregoing, IT IS HEREBY RECOMMENDED that:

22 1. The United States' Request for a final order of continuing garnishment be
23 GRANTED;

24 2. GARNISHEE be ORDERED to pay at least monthly to the Clerk of the United
25 States District Court, twenty-five (25) percent of the Defendant and Judgment Debtor Irma
26 Miguel's disposable wages, earnings, commissions, bonuses, and compensation until: the
27 judgment including interest and surcharge amount of \$223,631.25 is paid in full; further order of
28 this Court; or Stanislaus County no longer has custody, possession or control of any property

1 belonging to Defendant and Judgment Debtor.

2 3. Stanislaus County be further ORDERED to provide the United States with written
3 notice if the amount or form of compensation to Defendant and Judgment Debtor changes while
4 this order is in effect or if Stanislaus County no longer has custody, possession, or control of
5 Defendant and Judgment Debtor's property.

6 4. GARNISHEE be further ORDERED to DELIVER to the Clerk of the United
7 States District Court, within fifteen (15) days of the filing of the Order, all amounts previously
8 withheld by Stanislaus County pursuant to the writ of garnishment. Stanislaus County shall also
9 provide the United States with a written accounting, by pay period, of the amounts withheld from
10 the Defendant and Judgment Debtor's wages during the period from service of the writ to entry
11 of this final order.

12 5. The instrument of payment must be made in the form of a cashier's check, money
13 order or company draft, and made payable to the "Clerk of the Court" and delivered to the
14 United States District Court, Eastern District of California, 501 I Street, Room 4-200,
15 Sacramento, California 95814. Stanislaus County shall also state the criminal docket number
16 (Case No. 1:96-CR-05110-REC) on the payment instrument.

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1 These findings and recommendations are submitted to the district judge assigned to this
2 action, pursuant to this Court’s Local Rule 304. Within fourteen (14) days of service of these
3 findings and recommendations, any party may file written objections to these findings and
4 recommendations with the Court and serve a copy on all parties. Such a document should be
5 captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to
6 the objections shall be filed with the court and served on all parties within fourteen days after
7 service of the objections. The district judge will review the magistrate judge’s findings and
8 recommendations pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to
9 file objections within the specified time may result in the waiver of rights on appeal. Wilkerson
10 v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
11 (9th Cir. 1991)).

12 IT IS SO ORDERED.

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14 Dated: April 26, 2017



UNITED STATES MAGISTRATE JUDGE