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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
                                Plaintiff,  
  
                                v.  
  
MARTIN CULLENWARD,  
  
                                Defendant.

No. 2:14-mc-0021 JAM CKD

ORDER

Defendant’s claim of exemption re writ of garnishment is pending before the court. Due to defendant’s incarceration, the matter is submitted on the papers. Upon review of the documents in support of the claim of exemption and the opposition thereto and good cause appearing therefor, THE COURT FINDS AND ORDERS AS FOLLOWS:

1. Plaintiff here seeks garnishment of defendant’s Individual Retirement Account (“IRA”) maintained by the Vanguard Group, Inc. to recover the unpaid restitution order<sup>1</sup> entered against defendant in a criminal proceeding. On March 4, 2014, the date on which Vanguard was served with the writ of garnishment, the IRA was invested in the Vanguard Wellesley Income Fund, with a total value of \$11,660.89 and in the Vanguard Wellington Fund, with a total value of \$11,684.26. See ECF No. 7, p.1. Defendant objects to the garnishment action on the ground that

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<sup>1</sup> Restitution in the total sum of \$1,483,620.14 was ordered in the criminal proceeding. See USA v. Cullenward, 2:13-cr-0060 JAM-1, ECF No. 29.

1 the amended judgment entered in the criminal proceeding, which provides for a payment  
2 schedule, precludes any efforts by the United States to collect the restitution amount by other  
3 means. See USA v. Cullenward, 2:13-cr-0060 JAM-1, ECF No. 29 at p.6 (“If incarcerated,  
4 payment of restitution is due during imprisonment at the rate of not less than \$25 per quarter”).  
5 The payment plan does not preclude the government from enforcing the restitution order by  
6 garnishment of defendant’s nonexempt property. See United States v. James, 312 F. Supp. 2d  
7 802, 806-807 (E.D. Va. 2004). Defendant’s claim of exemption is therefore denied.

8           2. Within seven days of entry of this order, plaintiff shall submit a proposed final order of  
9 garnishment, directing immediate distribution of the IRA maintained by Vanguard Group, Inc.  
10 registered in the name of Martin Stuart Cullenward, to be paid to the plaintiff United States of  
11 America.

12 Dated: April 29, 2014

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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