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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,
12 Plaintiff,

13 v.

14 CHRISTOPHER R. BATES,
15 Debtor.

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17 DASAMI INC. DBA CAPITOL CITY
18 AUTOMOTIVE,
19 Garnishee.
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Case No. 2:22-MC-00259-KJM-CKD

ORDER OF CONTINUING GARNISHMENT

Criminal Case No. 2:00-CR-00229-MCE

21 On August 23, 2022, The United States, in accordance with the Federal Debt Collection
22 Procedures Act of 1990 ("FDCPA"), 28 U.S.C. § 3205(b)(1), requested that the Clerk of the United
23 States District Court issue a Writ of Continuing Garnishment against twenty-five percent (25%) of
24 Christopher R. Bates's non-exempt disposable earnings held by Dasami Inc., doing business as Capitol
25 City Automotive. (ECF No. 1.) The United States averred that, upon information and belief, Bates is an
26 employee and/or independent contractor of Dasami/Capitol City Automotive. (ECF No. 2 at 1.)

27 On November 4, 2003, the district court sentenced Bates in criminal case number
28 2:00-CR-00229-MCE. The judgment was amended after appeal on or about March 22, 2005, and

1 ordered Bates to pay a statutory assessment of \$300.00 and restitution of \$1,738,520.10. *See United*
2 *States v. Bates*, 2:00-CR-00229-MCE (E.D. Cal.), ECF No. 337. The United States avers that, as of
3 August 23, 2022, Bates owed \$1,723,330.26 and has failed to satisfy the debt. (ECF No. 1 at 1-2.)

4 On November 22, 2022, the United States filed a request for findings and recommendations in
5 the instant action. ECF No. 8. The magistrate judge issued findings and recommendations on
6 November 29, 2022, recommending that a final order of continuing garnishment be granted. ECF
7 No. 10. Bates has filed objections to the findings and recommendations, ECF Nos. 13 & 14, requesting
8 that the court modify the requested garnishment order and surcharge due to financial hardship. The
9 United States has filed a response. ECF No. 15.

10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has
11 conducted a *de novo* review of this case. Having reviewed the file, the court finds the findings and
12 recommendations to be supported by the record and by the proper analysis. The court writes separately
13 only to address Bates's objections to the findings and recommendations.

14 Bates received notice that he could object to the proposed writ, claim exemptions, and request a
15 hearing. *See* Instructions to Debtor, ECF No. 5-1; Form Request for Hearing, ECF No. 5-5; Certificate
16 of Service, ECF No. 5. He did not object, seek a hearing, or claim exemptions. In addition, the 10%
17 litigation surcharge will not be paid until Bates satisfies the debt, as the United States acknowledges, but
18 it is an additional charge, and the United States is entitled to it by statute. *See United States v. Pioch*,
19 5 F.4th 640, 645 (6th Cir. 2021) (“In the mine-run restitution scenario, it would be unjust and unfair to
20 allow the Government to collect the § 3011(a) surcharge ahead of the victim of a crime or to subtract the
21 surcharge from the amount that the victim is owed.”); *see also* 28 U.S.C. § 3011(a) (“[T]he United
22 States is entitled to recover a surcharge of 10 percent of the amount of the debt in connection with the
23 recovery of the debt, to cover the cost of processing and handling the litigation and enforcement under
24 this chapter of the claim for such debt.”).

25 Accordingly, IT IS ORDERED that:

26 1. The findings and recommendations issued November 29, 2022 (ECF. No. 10) are adopted in
27 full;

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