

N.D.A.G. Letter to Huseby (Aug. 6, 1990)

August 6, 1990

Ms. Robin Huseby
State's Attorney
Barnes County Courthouse
Valley City, ND 58072

Dear Ms. Huseby:

Thank you for your letter of May 18, 1990, regarding whether N.D.C.C. § 29-26-22.1 precludes a district court clerk from filing a federal criminal judgment as a lien against a judgment debtor residing in the county.

Your district court clerk received a criminal judgment from the United States District Court that required the judgment debtor to pay restitution. The federal court requested that this judgment be filed as a lien against the judgment debtor's real property located in Barnes County.

As you point out in your letter, N.D.C.C. § 29-26-22.1 states that a judgment that imposes a fine or assesses costs against a criminal defendant may be docketed by the clerk of the court and will have the same effect as the docketing of a civil judgment. The docketed judgment then imposes a lien on real property in the county and is enforceable by execution in the same manner as provided for civil judgments for money. N.D.C.C. § 12.1-32-08(1)(c) states:

. . . An order that a defendant make restitution or reparation as a sentence or condition of probation must, unless the court directs otherwise, be filed, transcribed, and enforced by the person entitled to the restitution or reparation in the same manner as civil judgments rendered by the courts of this state may be enforced.

N.D.C.C. § 28-20.1-02 states:

A copy of any foreign judgment authenticated in accordance with the act of Congress or the statutes of this state may be filed in the office of the clerk of any district court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of any county of this state.

Foreign judgment is defined in N.D.C.C. § 28-20.1-01 to include a judgment or order of a court of the United States.

These statutes thus allow federal or state restitution judgments to be filed and executed in

the same manner as civil judgments and, therefore, N.D.C.C. § 29-26-22.1 should not be interpreted to exclude state or federal criminal judgments requiring payment of restitution. Your district court clerk is therefore able to accept such judgments for filing against a judgment debtor or defendant within your county.

I hope this discussion has been helpful to you.

Sincerely,

Nicholas J. Spaeth

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