

REL: 05/12/2017

Notice: This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 229-0649), of any typographical or other errors, in order that corrections may be made before the opinion is printed in Southern Reporter.

ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2016-2017

2160188

Lenita Merrida

v.

Credit Acceptance Corporation

Appeal from Mobile Circuit Court
(CV-11-963)

2160189

Samantha Nettles

v.

Credit Acceptance Corporation

Appeal from Mobile Circuit Court
(CV-16-59)

2160188; 2160189

MOORE, Judge.

In appeal number 2160188, Lenita Merrida appeals from a judgment entered by the Mobile Circuit Court ("the circuit court") in case number CV-11-963 to the extent that it limited her constitutional wage exemption, see Ala. Const. 1901 (Off. Recomp.), Art. X, § 204, to the first \$1,000 in wages that she earns. In appeal number 2160189, Samantha Nettles appeals from a judgment entered by the circuit court in case number CV-16-59 to the extent that it also limited her constitutional wage exemption to the first \$1,000 in wages that she earns. We have consolidated the appeals for the purpose of issuing one opinion.

Procedural History

Appeal Number 2160188

On June 18, 2013, a judgment was entered by the circuit court in favor of Credit Acceptance Corporation ("Credit Acceptance") and against Merrida in the amount of \$10,469.89, plus costs. Credit Acceptance subsequently filed an application for a writ of garnishment seeking to garnish Merrida's wages. On January 20, 2016, Merrida filed a

2160188; 2160189

verified declaration and claim of

2160188; 2160189

Acceptance subsequently filed an application for a writ of garnishment seeking to garnish Nettles's wages. Nettles filed a verified declaration and claim of exemptions stating, in pertinent part:

"After my employer took out taxes, social security, and any other garnishment, my net biweekly wages per paycheck averaged [\$]424.00. I am currently

2160188; 2160189

wages reaching the exemption maximum of \$1,000.00,
[Nettles's employer] ... shall reinstate the
garnishment, withhold the requested sums, and
forward same to the Clerk of Court unti#cff²#cf•

2160188; 2160189

to the prejudice of his creditors. But if the property allotted to him has been taken from him without fault on his part, or it has been consumed in maintaining himself or family, a subsequent exemption may be claimed. It is his right to have and hold, at all times, an exemption of personal property of the value of one thousand dollars, of his own selection, free from liability to debts. When the property which he had selected has been lost to him, or has deteriorated in value, without fault on his part, or has been consumed in the maintenance of himself or family, or applied by him to the payment of debts, the right secured to him would be impaired, if he could not select and retain property, notwithstanding the former claim of exemption. The rights of creditors are not impaired, so long as the debtor is not permitted to hold property exceeding in value one thousand dollars.'"

Id. (quoting Weis v. Levy, 69 Ala. 209, 211 (1881), citing in turn Alabama Conference v. Vaughan, 54 Ala. 443 (1875)) (emphasis added).

Furthermore, our supreme court has recognized: "The purpose of the exemption laws is to protect the debtor and his [or her] family from being deprived of the items necessary for subsistence, and possibly to prevent them from becoming a burden upon the public." Ex parte Avery, 514 So. 2d 1380, 1382 (Ala. 1987). Therefore, "exemption laws must be liberally construed." Id. Applying that construction, our supreme court held that "future wages can be claimed as exempt." Id.

2160188; 2160189

In Pruett v. Worldwide Asset Purchasing, LLC, 140 So. 3d 481, 484 (Ala. Civ. App. 2013), this court held that, "[b]ecause Pruett's claimed exemption of the entirety of her wages does not exceed the \$1,000 exemption provided in § 204," Pruett was entitled to an exemption of the

2160188; 2160189

maintenance of [them] or [their] famil[ies], ... the right
secured to [them] would be impaired, if [they] could not