

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA :
 :
 v. :
 :

MOTION TO REDUCE PAYMENTS TOWARD ATTORNEY'S FEES

BY ORDER dated April 1, 2003, the Court directed that the Defendant pay a total of \$3,000.00 toward attorney's fees at the rate of \$500.00 per month, beginning on April 15, 2003, and continuing on the same day of each month thereafter until paid in full. The Defendant has made the payment which was due by April 15, 2003. The Defendant now requests that the Court reduce the total amount to be paid toward attorney's fees to the one payment of \$500.00 which has already been made, and shows unto the Court the following information to supplement the financial Affidavit previously submitted to the Court.

On the Affidavit, the Defendant noted a debt of over \$200,000.00 on his residence, with monthly payments of \$1,912.87. The Defendant also noted that the residence was in foreclosure. The Defendant also indicated that he owned a 1998 Honda Accord, with an outstanding balance of approximately \$23,000.00 and monthly payments of \$527.22.¹

¹The Defendant neglected to note on his Affidavit a monthly debt of \$200.00 on a payment plan for delinquent

The Defendant and his wife purchased the residence in December of 2000. At that time, the Defendant was employed by Hitachi Data Systems and was paid \$8,833.33 per month. Therefore, the Defendant was able to make the monthly payments of \$1,912.87 for the residence based on that salary.

After the events of September 11, 2001, sales for the Defendant's employer dropped dramatically, and the Defendant was laid off. The Defendant received severance pay in the amount of \$27,000.00 from [REDACTED] and was able to live off of this amount during a subsequent period of unemployment. The Defendant was able to maintain the monthly payments on the residence out of this severance pay. However, that severance pay eventually ran out, and the last monthly payment toward the mortgage on the residence was made in March of 2002.

The Defendant found employment and began working for [REDACTED] in April of 2002, at a salary of \$3,500.00 per month. Because of this dramatic reduction in salary, compared to his salary with [REDACTED] the Defendant was not able to make monthly payments on the residence. The Defendant began work with his currently employer, [REDACTED] in November of 2002, and, as indicated on the financial Affidavit submitted to the Court, the Defendant has a take-home pay, or net pay, of a little over

property taxes.

\$4,000.00 per month. A copy of a recent paycheck stub from [REDACTED] for the Defendant is attached hereto as Exhibit A. After deducting insurance and taxes from his weekly pay, the Defendant has a net pay of \$1,045.58 per week, or approximately \$4,182.00 per month.

Again, because of his greatly reduced income, the Defendant has not been able to make any payments on his mortgage since March of 2002, and currently is in arrears by approximately \$27,000.00. There is an outstanding balance of approximately \$215,000.00. The holder of the mortgage, Option One Mortgage Corporation, has the residence in foreclosure proceedings, with a foreclosure sale scheduled for May 6, 2003. The Defendant has consulted with a bankruptcy attorney, and is prepared to file for Chapter 13 bankruptcy on May 2, 2003.

The Defendant's bankruptcy attorney has informed the Defendant that he likely will have to make a monthly payment of approximately \$1,300.00 into the bankruptcy plan. That payment will include payments for the Defendant's vehicle and the arrearage on the mortgage of the residence. However, the Defendant again will have to begin making monthly payments of \$1,912.87 on the mortgage in addition to the bankruptcy payment. The combination of the mortgage payment and the bankruptcy payment will leave the Defendant with slightly less than

\$1,000.00 in disposable income. The Defendant's wife is not employed and is pregnant with a due date of mid-June of 2003. The Defendant anticipates having to find some kind of night job to supplement the income for the family after the bankruptcy plan is in place.

Therefore, it is obvious that the Defendant has essentially no cash flow, and cannot afford to make a total payment of \$3,000.00 towards attorney's fees in this case. Defendant's counsel has received from the Government through discovery a copy of a web page concerning a ministry which the Defendant and his wife previously attempted to establish. A copy of this web page is attached hereto as Exhibit B. The Government may contend that the Defendant has some income from that web page. However, the Defendant assures the Court that the web page existed to attempt to raise money to purchase a church building for this ministry, but that the ministry never raised any significant money, and none of that was income to the Defendant. Essentially, the small amount of money raised only met minimal expenses, and the ministry never got off the ground. The Defendant has never made any money from that ministry or that web page.

Based on the foregoing, the Defendant respectfully requests that the Court enter an Order reducing the total amount of

payments toward attorney's fees to the one \$500.00 payment which has already been made.

Respectfully submitted this the _____ day of April, 2003.

— WILLIAM C. INGRAM
First Assistant Federal Public Defender
North Carolina State Bar No. [REDACTED]
101 S. Elm St., Suite 210
Greensboro, NC 27401
(336) 333-5455

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing **MOTION TO REDUCE PAYMENTS TOWARD ATTORNEY'S FEES** by United States Mail or by hand delivery upon:

Robert M. Hamilton, AUSA
P. O. Box 1858
Greensboro NC 27402

Wendy Tucker, USPO
Federal Bldg. Suite 840
251 N. Main St.
Winston-Salem, NC 27101

This the ___ day of April, 2003.

— WILLIAM C. INGRAM
First Assistant Federal Public Defender

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