

Opinion No. 21-3109

September 1, 1921

BY: A. M. EDWARDS, Assistant Attorney General

TO: Mr. Edmund R. French, Gallup, New Mexico.

Exemptions From Garnishment Process.

OPINION

{*87} This office has your letter of August 30th, in which you state that in your justice of the peace court a judgment by default was entered against a garnishee and that he claims exemption from execution under the provisions of section 2327 of the 1915 Codification. You ask whether he can legally claim such exemption.

Under the authorities generally, the claim of exemption cannot be made where the debt arises out of tort. Our exemption statute seems to be very liberal in that it provides that exemption from execution may be claimed for any debt, damage, fine or amercement. (Section 2311).

Section 2547 of the 1915 Codification provides that when any judgment is rendered against a garnishee the execution shall be such as is allowed by law in cases of ordinary judgments.

It would seem, therefore, that the garnishee, or judgment debtor in this case, would have the right to claim the exemption from execution which the statute allows. We have not had time to examine the authorities upon this question, if there are any, nor do we believe that our Supreme Court has passed on the question.