

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ERNEST KWASI BANKAS,

Defendant.

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ORDER

06-cr-36-bbc

Defendant Ernest Bankas has filed a motion to vacate the court's March 20, 2013 order directing that the royalty payments due defendant from the sale of his textbook be paid to the Clerk of the United States District Court for the Western District of Wisconsin to be applied toward his restitution obligation. Defendant claims that he was entitled to a hearing on the motion, but he is mistaken.

As part of the plea agreement signed by the defendant on September 9, 2010, he agreed to pay the full amount of restitution due and payable immediately from the liquidation of all non-exempt assets under 18 U.S.C. § 3613(a). Royalty payments do not qualify as an exempt asset for purposes of restitution.

Under 28 U.S.C. § 3664(k), the government may notify the court if there is a material change in defendant's economic circumstances that might affect defendant's ability to pay court-ordered restitution. Upon receipt of such a notification, the court may, on its

own, or the motion of the government, adjust the payment schedule. Because the royalty payments constitute a material change in defendant's economic circumstances and because those payments do not qualify as an exempt asset, the court may enter an order applying those proceeds to defendant's restitution obligation. No hearing is required on the government's motion.

ORDER

Defendant's motion to vacate the March 20, 2013 order is DENIED.

Entered this 25th day of April, 2013.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge