

**NONPRECEDENTIAL DISPOSITION**

To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals**

**For the Seventh Circuit  
Chicago, Illinois 60604**

Submitted October 2, 2024\*

Decided October 2, 2024

**Before**

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-2267

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

JESSICA ARONG O'BRIEN,  
*Defendant-Appellant,*

*and*

JUDGES' RETIREMENT SYSTEM and  
STATE EMPLOYEES' RETIREMENT  
SYSTEM,  
*Parties-in-Interest.*

Appeal from the United States District  
Court for the Northern District of  
Illinois, Eastern Division.

No. 17 CR 239-1

Thomas M. Durkin,  
*Judge.*

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\* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

## ORDER

Jessica O'Brien appeals the district court's approval of the government's motion to turn over assets from her retirement accounts to satisfy her restitution debt. The court properly ruled that, consistent with her sentencing judgment, it could order O'Brien to satisfy her restitution by turning over those retirement assets; thus we affirm.

This dispute stems from O'Brien's convictions for mail fraud, 18 U.S.C. § 1341, and bank fraud, 18 U.S.C. § 1344, which we affirmed. *United States v. O'Brien*, 953 F.3d 449 (7th Cir. 2020). After O'Brien was released from her prison term, the government moved for an order that O'Brien's two state retirement accounts turn over a lump sum of about \$117,000 to apply to her outstanding restitution judgment. That judgment required her to pay the restitution amount of \$660,000 in a "lump sum" within 30 days "after release from imprisonment," consistent with the court's payment plan. The plan scheduled monthly installments of "at least" 10% of her net monthly income.

O'Brien objected to the motion on three grounds. First, she characterized it as an improper modification of her restitution judgment, which she interpreted as limited to 10% of her net monthly income, without regard to her available assets. Second, she argued that accessing the retirement funds would impose a heavy tax obligation on her and deprive her family of their survivorship rights in the accounts. Finally, she contended that she had a right to a hearing on the matter.

The district court rejected these arguments and granted the motion. It explained that O'Brien's restitution debt obligated her to pay as much as she can now and the government can access any nonexempt assets, including retirement savings, to satisfy that debt. Moreover, tax liability and the potential future property interest of O'Brien's family did not affect the government's entitlement to her retirement funds. Finally, because the court did not change her judgment, O'Brien had no right to a hearing.

We pause to comment on two matters outside the scope of this appeal. First, in the district court, O'Brien moved to reconsider the turnover order and, before the court ruled, appealed it. We stayed proceedings in this court while the district court resolved her motion to reconsider. Once it did, O'Brien never filed a fresh appeal of the district court's denial of any motion for reconsideration. Because her notice of appeal addresses only the district court's original grant of the government's turnover motion, we do not address the motion to reconsider. *See Fogel v. Gordon & Glickson, P.C.*, 393 F.3d 727, 731 (7th Cir. 2004). Second, many of O'Brien's arguments on appeal dispute the calculation of restitution and relitigate her charges by alleging prosecutorial misconduct, ineffective

assistance of counsel, and government suppression of evidence. This appeal, though, concerns only whether the government may reach O'Brien's retirement assets to satisfy the restitution judgment. Any challenges to O'Brien's conviction or how the sentencing court computed the restitution amount are beyond this appeal.

O'Brien's only relevant contention on appeal is unpersuasive. She argues that the government waived a right to her retirement accounts because her accounts are not listed in the restitution order as sources of repayment; thus the district court modified the judgment impermissibly through the turnover order. But she cites no authority for her assertion that a criminal judgment must specify all assets from which the government may satisfy restitution. Nor could she, for 18 U.S.C. § 3613(c) specifies that an order of restitution is a "lien in favor of the United States on all property and rights to property of the person fined." See *Stacy v. United States*, 70 F.4th 369, 377 (7th Cir. 2023). This entitles the government to seek a lump-sum distribution from retirement funds. *United States v. Sayyed*, 862 F.3d 615, 619–20 (7th Cir. 2017). Given this authority, and the judgment's decree that O'Brien pay restitution from available assets in a lump sum 30 days after her release from prison, the court's order that O'Brien's retirement accounts turn over assets was thus a proper exercise of its power to enforce the restitution debt of \$660,000. With O'Brien developing no further, relevant challenges to the turnover order, we have no reason to disturb it.

AFFIRMED.