

CLAUDE W. GILLIAM *v.* SARAH J. GILLIAM

5-3450

406 S. W. 2d 870

Opinion delivered October 17, 1966

**DIVORCE—ALLOWANCES—ACTIONS ON BONDS.**—Where appellee's attorney claimed alimony arrearages in excess of bond fund and Internal Rev Service sought to assert tax lien against fund, trial court should take jurisdiction to determine priorities of claimants making certain all have opportunity upon appropriate notice to assert respective claims.

Appeal from Pulaski Chancery Court, First Divi-

sion, *Murray O. Reed*, Chancellor; per curiam order.

*Philip N. Gowen*, for appellant.

*John P. Gill*, for appellee.

Appellant sought relief in this court and as a condition for granting said relief per curiam order was entered on the 28 day of September, 1964, requiring appellant to make a good and sufficient bond in this court in the penal sum of \$500.00, conditioned that the said amount "will be paid on any present arrearages in alimony payments we may hereafter determine."

On October 22, 1964, appellant made and filed a cash bond in the sum of \$500.00.

On August 17, 1966, appellant filed his motion for release of the bond funds to him.

On September 29, 1966, appellee's attorney filed a formal response for appellee to appellant's motion for release of the bond funds, setting forth that appellant was then in arrears in alimony payments to appellee in the sum of \$5,400.00 or for a period of fifty-four months.

On September 15, 1966, the Internal Revenue Service of the United States filed with the Clerk of this Court its Notice of Levy, seeking to assert a tax lien against the said cash funds deposited as a bond by appellant.

We have concluded that the trial court should take jurisdiction as to the question of priority of the various claimants to the bond funds, making certain that all claimants have an opportunity upon appropriate notice to assert their respective claims.

**IT IS SO ORDERED.**

**IT IS FURTHER ORDERED** that the Clerk of this Court deposit the bond funds of \$500.00 into the registry of the trial court and that he deliver to the clerk of the trial court all instruments and pleadings relating to the bond funds which have been filed in this Court for the use and guidance of the trial court.