

Supreme Court of Florida

No. 65,205

SOUTHEAST BANK, N.A., formerly known
as SOUTHEAST BANK TRUST COMPANY,
Petitioner,

vs.

BETTY J. GILBERT, Respondent.

[January 31, 1985]

ALDERMAN, J.

We review the decision of the District Court of Appeal, Second District, in Gilbert v. Gilbert, 447 So.2d 299 (Fla. 2d DCA 1984), which expressly and directly conflicts with White v. Bacardi, 446 So.2d 150 (Fla. 3d DCA 1984).

The Second District affirmed the trial court and held that spendthrift trusts may be garnished for the collection of both alimony arrearages and attorney's fees awarded incident to the divorce. It also held that a continuing writ of garnishment could be issued to secure the payment of future alimony.

We have resolved these issues in Bacardi v. White, No. 65,181 (Fla. Jan. 31, 1985), wherein we held that disbursements from spendthrift trusts, in certain limited circumstances, may be garnished to enforce court orders on judgments for alimony and incident attorney's fees before such disbursements reach the debtor-beneficiary and that a continuing writ of garnishment may be appropriate in some circumstances.

Accordingly, we approve the result reached by the Second District and remand this case for further proceedings consistent with our decision in Bacardi.

It is so ordered.

ADKINS, OVERTON, McDONALD, EHRLICH and SHAW, JJ., Concur
BOYD, C.J., Dissents
NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

Application for Review of the Decision of the District Court
of Appeal - Certified Direct Conflict

Second District - Case No. 83-821

George R. McLain of Harnden, McLain and Dart, Chartered, Sarasota,
Florida; and Eugene O. George of Burket, Smith, Bowman and George,
Sarasota, Florida,

for Petitioner

Arthur D. Ginsburg of Ginsburg, Byrd, Jones and Dahlgaard,
Sarasota, Florida,

for Respondent

William L. Hyde of Akerman, Senterfitt and Eidson, Tallahassee,
Florida, amicus curiae for Florida Bankers Association; and
A. Matthew Miller of Miller and Schwartz, P.A., Hollywood, Florida,
and Melvyn B. Frumkes of Frumkes and Greene, P.A., Miami, Florida,
amicus curiae for American Academy of Matrimonial Lawyers,
Florida Chapter