

**FIRST NAT'L BANK V. SCOTT, 1917-NMSC-007, 22 N.M. 411, 163 P. 1084 (S. Ct. 1917)**

**FIRST NAT. BANK OF ALBUQUERQUE  
vs.  
SCOTT (MARRON, State Treasurer, Garnishee)**

No. 1927

SUPREME COURT OF NEW MEXICO

1917-NMSC-007, 22 N.M. 411, 163 P. 1084

March 01, 1917

Appeal from District Court, Bernalillo County; Mechem, Judge.

Action by the First National Bank of Albuquerque against K. K. Scott, judgment debtor, and O. N. Marron, Treasurer of the State of New Mexico, garnishee. Judgment for defendant on sustaining a demurrer to the complaint, and plaintiff appeals.

**SYLLABUS**

**SYLLABUS BY THE COURT**

Laws 1915, c. 26, does not authorize the garnishment of the salary of a public official.

**COUNSEL**

Karl A. Snyder of Deming for appellant.

The salaries of public officials may be garnished in the hands or custody of other public officers.

C. 26, Laws 1915.

Such action is not against public policy

Ruperich v. Baehr, 75 Pac. 782; City of Newark v. Funk & Bro., 15 Ohio St. 462;  
Rodman v. Musselman, 23 A. R. 724.

K. K. Scott, **Pro se.**

Salary of appellee is not subject to garnishment.

Rood's Garnishment, Sec. 5; 14 A. & E. Enc. L. 786; 12 A. & E. Enc. L. 69-70; Lewis v. Denver, 48 Pac. 317.

### **JUDGES**

Roberts, J. Hanna, C. J., and Parker, J., concur.

**AUTHOR: ROBERTS**

### **OPINION**

{\*412} {1} OPINION OF THE COURT. The appeal in this case involves the same questions presented to this court by the case of Owen v. Terrell, 22 N.M. 373, 162 P. 171. Appellant obtained a judgment against appellee, who was the district attorney of the Fifth judicial district, this state, and thereafter instituted proceedings in garnishment, naming the state treasurer as garnishee, and sought to garnishee the salary due appellee from the state, as such district attorney, under the provisions of chapter 26, Laws of 1915. The trial court sustained a demurrer to the complaint, and upon appellant's election to stand upon its demurrer judgment was rendered for defendant. From such judgment this appeal is prosecuted. In the case referred to we held that chapter 26, Laws 1915, did not authorize the garnishment of the salary of a public official.

{2} Following that case, the judgment herein must be affirmed; and it is so ordered.