

ALABAMA GOLD LIFE INS. CO. *v.* GIRARDY.

*Circuit Court, D. Louisiana.*

1881.

1. STATE COURT—PROCESS.

A state court cannot reach funds which have been made by an officer of a federal court on execution.

Rule on marshal to pay over moneys collected on execution.

PARDEE, C. J. In this case the marshal, on execution, has made the sum of \$1,880.16 for the plaintiffs. To a rule directing him to pay over or show cause, he answers that the funds in his hands have been attached under process from the civil district court of the parish of Orleans, in a suit brought by *W. H. Finnegan v. The Alabama Gold Life Ins. Co.* The answer is not sufficient. The funds are in the custody of this court, and are not subject to the control or process of the state court. See case of *Ellis v. Wooldridge*, 2 Wood, 667.

The only doubt I have about making the rule absolute is whether, as a matter of comity, this court should not wait until the attachment is discharged in the state court, as it undoubtedly will be on suggestion of the facts, before disposing of the proceeds in the hands of the marshal.

But considering the absolute illegality of the pretended seizure, and that a delay may be taken as waiving the undoubted jurisdiction of this court in the premises, and repudiating any desire or intention of forestalling the action of the state court or of prejudicing its jurisdiction, I deem it my duty to make the rule absolute; and it is so ordered.

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