COURT OF APPEALS
DECISION
DATED AND RELEASED

JULY 25, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-0352-FT

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

In re the Paternity of Megan M. M.:

STATE OF WISCONSIN
EX REL. CHRISTINE M.,

Petitioner-Respondent,

v.

GLENN D. B.,

Respondent-Appellant.

APPEAL from an order of the circuit court for Forest County: ROBERT A. KENNEDY, Judge. *Reversed and cause remanded.*

LaROCQUE, J. Glenn D.B. appeals an order applying a $1,000 cash bail bond toward delinquent child support.[1] The bond was posted by Glenn's brother following his arrest on a bench warrant for failing to appear at a support hearing arising out of a paternity judgment. Glenn maintains that there is no authority to apply the bond to child support arrears. This court agrees and reverses and remands for further proceedings.

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[1] This is an expedited appeal under RULE 809.17, STATS.

The State contends that the court has inherent authority to apply the bond money to child support. It cites no authority for its contention, other than to concede that although the power to punish for contempt is inherent, the penalties prescribed may be limited by statute, citing ***State ex rel. Lanning v. Lonsdale***, 48 Wis. 348, 4 N.W. 390 (1880).

If the court sets conditions of bond, the bond may be forfeited for any noncompliance with the conditions set for release. ***State v. Badzmierowski***, 171 Wis.2d 260, 263, 490 N.W.2d 784, 785 (Ct. App. 1992). Thus, forfeiture is not limited for failure to appear: Where the subject disobeys any condition of the bond, the court may order a bail forfeiture. ***Id.***

The State does not contend that the bond in this case included a condition that Glenn pay child support. Neither the bond itself nor a transcript of the proceedings is in the appellate record. The court's order applying the bond to child support is silent as to the matter.

Because the record fails to support a showing that the bond was forfeited pursuant to § 969.13(1), STATS., this court need not address issues raised relating to whether a forfeiture may be applied to child support or the alleged failure to notify Glenn of the consequences of failing to meet the conditions of a bond. The order is reversed and the cause remanded for further proceedings consistent with this opinion.

By the Court. – Order reversed and cause remanded.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.