

**NABORS OFFSHORE
CORPORATION**

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NO. 2016-CA-0003

VERSUS

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COURT OF APPEAL

CATERPILLAR INC. ET AL

*

FOURTH CIRCUIT

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STATE OF LOUISIANA

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LANDRIEU, J., CONCURS WITH REASONS

Appellate courts exercise, or decline to exercise, supervisory jurisdiction with respect to interlocutory judgments. Final judgments, however, are appealable and are therefore reviewed by the exercise of appellate jurisdiction. See La. C.C.P. art. 2083; *In re Succession of Scheuermann*, 2015-0040, pp. 2-3 (La. App. 4 Cir. 5/22/15), 171 So.3d 975, 977–78. As the Louisiana Supreme Court has held: “[I]t is a mistake to seek review of a final judgment by supervisory writ rather than by appeal. *Douglass v. Alton Ochsner Med. Found.*, 96-2825, p. 4 (La. 6/13/97), 695 So.2d 953, 956 (quoting *In re Howard*, 541 So.2d 195, 197 (La. 1989)). In this case, the trial court’s granting of Superior’s motion for summary judgment is a final appealable judgment pursuant to La. C.C.P. art. 1915 A.

Rather than taking an immediate appeal, however, counsel for Caterpillar filed an application for supervisory writs. I write separately to point out that we contributed to the procedural quagmire of this case by denying the writ rather than dismissing it on procedural grounds. Another procedural misstep occurred when the trial court misinterpreted our writ denial, in which we said there was “no error in the judgment of the trial court.” The record before us reveals that upon receiving this writ disposition, the trial court considered it to be an affirmation of his earlier judgment and therefore reversed his prior granting of Caterpillar’s

motion for new trial from that judgment. As the majority correctly notes, the denial of a writ application has no precedential value. *Diecidue v. Tittle*, 2012-0903, p. 3, n. 2 (La. App. 4 Cir. 8/14/13), 122 So.3d 1143, 1145. When an appellate court denies a writ application, it has declined to exercise its supervisory jurisdiction and is therefore without authority affirm, reverse or modify the judgment of the trial court. *Bulot v. Intracoastal Tubular Servs., Inc.*, 2002-1035, p. 1 (La. 6/14/02), 817 So.2d 1149.

As the result of multiple procedural missteps in this case, the trial court was effectively precluded from addressing the merits of the issues raised in the motion for new trial. Accordingly, I concur in the remand.