

INDIVIDUAL MEMBERS OF THE GRAND  
LODGE OF THE STATE OF LOUISIANA

NO. 18-C-612

VERSUS

FIFTH CIRCUIT

GUY JENKINS, MARTIN REINSCHMIDT, AND  
THE ELECTED BOARD OF DIRECTORS OF  
THE GRAND LODGE OF THE STATE OF  
LOUISIANA

COURT OF APPEAL

STATE OF LOUISIANA

October 26, 2018

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Mary E. Legnon  
Chief Deputy Clerk

IN RE GUY JENKINS, MARTIN REINSCHMIDT, AND THE GRAND LODGE OF THE STATE OF  
LOUISIANA

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APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,  
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE DANYELLE M.  
TAYLOR, DIVISION "O", NUMBER 785-301

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Panel composed of Judges Jude G. Gravois,  
Hans J. Liljeberg, and John J. Molaison, Jr.

### **WRIT DENIED IN PART AND GRANTED IN PART; STAY DENIED**

Relators/defendants, Guy Jenkins, Martin Reinschmidt and the Grand Lodge of the State of Louisiana, seek this Court's emergency supervisory review of a decision by the trial court to rule on their exception of improper venue at trial. For the following reasons, we deny this writ in part, grant this writ in part, and deny relators' request for a stay.

This matter was commenced as a summary proceeding on July 1, 2018, when plaintiffs/respondents, Frank DuTreil, Wesley Cognevich, Vernon Atkinson, Lawrence Wade, and Jason C. Bruzik, filed a petition for a writ of quo warranto. A hearing on the rule to show cause on the writ of quo warranto was initially set for July 27, 2018, but for various reasons was ultimately continued to October 26, 2018. In response to the petition, relators filed, among other things, an exception of improper venue. The present writ application indicates that the trial court deferred ruling on the exception of improper venue to the merits of the matter.<sup>1</sup> In their writ application, relators argue that the trial court erred in not trying and deciding the declinatory exception of improper venue *prior to* trial.<sup>2</sup>

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<sup>1</sup> In the Order attached to relators' Notice of Intent to Apply for Supervisory Writs, the trial court wrote the following by hand: "This Court has not rendered any order or judgment relative to Defendants' exceptions. The Court is in the middle of taking testimony for the purpose of ruling on those exceptions."

<sup>2</sup> See La. C.C.P. art. 929(A) which provides: "The declinatory exception, the dilatory exception, and the peremptory exception when pleaded before or in the answer shall be tried and decided in advance of the trial of the case."

Summary proceeding are generally governed by La. C.C.P. arts. 2591-2596, which provide, in pertinent part:

- La. C.C.P. art. 2591: “Summary proceedings are those which are conducted with rapidity, within the delays allowed by the court, and without citation and the observance of all the formalities required in ordinary proceedings.”
- La. C.C.P. art. 2592: “Summary proceedings may be used for trial or disposition of the following matters only: ... (6) A ... quo warranto proceeding.”
- La. C.C.P. art. 2593: “A summary proceeding may be commenced by the filing of a contradictory motion or by a rule to show cause, except as otherwise provided by law. Exceptions to a contradictory motion, rule to show cause, opposition, or petition in a summary proceeding shall be filed prior to the time assigned for, and shall be disposed of at, the trial. An answer is not required, except as otherwise provided by law. No responsive pleadings to an exception are permitted.”
- La. C.C.P. art. 2595: “Upon reasonable notice a summary proceeding may be tried in open court or in chambers, in term or in vacation; and shall be tried by preference over ordinary proceedings, and without a jury, except as otherwise provided by law. The court shall render its decision as soon as practicable after the conclusion of the trial of a summary proceeding and, whenever practicable, without taking the matter under advisement.”
- La. C.C.P. art. 2596: “The rules governing ordinary proceedings are applicable to summary proceedings, except as otherwise provided by law.”

Under La. C.C.P. art. 2593, it is clear that exceptions to a petition in a summary proceeding, such as the current exception of improper venue, shall be disposed of at trial. Accordingly, we find no error in the trial court’s decision to defer ruling on the exception of improper venue to the merits of the matter. Accordingly, this writ application is denied in that regard. However, this writ is granted to the extent that the trial court is ordered to rule on the exception of improper venue prior to ruling on the merits of the matter. *See Drew Dev. Co. v. Hibernia Nat’l Bank*, 442 So.2d 1229 (La. App. 5<sup>th</sup> Cir. 1983).

For the foregoing reasons, this writ application is denied in part and granted in part. Further, relators’ request for a stay is denied.

Gretna, Louisiana, this 26th day of October, 2018.

**JGG**  
**HJL**  
**JJM**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
ROBERT A. CHAISSON  
STEPHEN J. WINDHORST  
HANS J. LILJEBERG  
JOHN J. MOLAISSON, JR.

JUDGES



FIFTH CIRCUIT  
101 DERBIGNY STREET (70053)  
POST OFFICE BOX 489  
GRETNA, LOUISIANA 70054  
www.fifthcircuit.org

CHERYL Q. LANDRIEU  
CLERK OF COURT

MARY E. LEGNON  
CHIEF DEPUTY CLERK

SUSAN BUCHHOLZ  
FIRST DEPUTY CLERK

MELISSA C. LEDET  
DIRECTOR OF CENTRAL STAFF

(504) 376-1400

(504) 376-1498 FAX

**NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **10/26/2018** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY

CHERYL Q. LANDRIEU  
CLERK OF COURT

**18-C-612**

**E-NOTIFIED**

Karen M. Dicke (Relator)  
James V. King, III (Relator)  
Jason C. Bruzik (Respondent)

**MAILED**