

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

INTERDICTION OF AMERICA JEAN
MORRIS METZLER

NO. 2015 CW 0521

JUN 05 2015

In Re: Stanton Lee Cadow, applying for supervisory writs,
22nd Judicial District Court, Parish of St. Tammany,
No. 2014-13789.

BEFORE: McDONALD, WELCH, CRAIN, DRAKE, AND HOLDRIDGE, JJ.

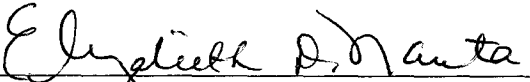
WRIT GRANTED WITH ORDER. The trial court's order signed March 13, 2015 that grants a devolutive appeal, rather than a suspensive appeal, from the February 20, 2015 judgment is hereby reversed. The February 20, 2015 judgment is not a "judgment of interdiction" meeting the requirements of La. C.C.P. 4551, is not "an order or judgment appointing or removing a curator or undercurator" and is not "an order or judgment modifying or terminating interdiction." Hence, the prohibition against a suspensive appeal, as set forth in La. C.C.P. art. 4555, is not applicable. The relator is entitled to a suspensive appeal in accordance with La. C.C.P. art. 2123. The Petition for Writ of Mandamus filed by the relator, therefore, is granted and the Twenty-Second Judicial District Court is hereby ordered to grant relator's petition for suspensive appeal, filed on March 10, 2015 on or before June 19, 2015.

**WJC
JMM
JEW**

DRAKE, J., dissents and would deny the writ.

HOLDRIDGE, J., dissents. An appeal from a judgment granting or denying an interdiction must be perfected within thirty days from the applicable date provided in La. C.C.P. art 2087. A suspensive appeal is not permitted. Frank L. Maraist, 1A La. Civ. L. Treatise, Civil Procedure § 7:1 (2005); see also La. C.C.P. art. 4555. Louisiana Code of Civil Procedure article 4555 specifically states that the acts of a curator or an undercurator shall not be invalidated by the annulment of his appointment on appeal. However, under the interpretation by the majority in this case, any juridical acts of the defendant, whom the court declared to be competent and refused to interdict, would effectively be suspended during the pendency of the appeal, since a potential judgment of interdiction would be retroactive to the date of the petition. La. C.C. art. 396. I respectfully argue that this cannot be the proper interpretation of La. C.C.P. art. 4555. This article should not be interpreted to put a greater burden on the defendant who is found to be competent than a person who is interdicted and has had a curator appointed.

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DEPUTY CLERK OF COURT
FOR THE COURT