

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

ANGELA M. MAXWELL

NO. 2015 CW 1481

VERSUS

JOSEPH S. MAXWELL

OCTOBER 29, 2015

In Re: Joseph S. Maxwell, applying for supervisory writs,
21st Judicial District Court, Parish of Livingston,
No. 141783.

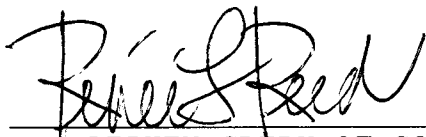
BEFORE: WHIPPLE, C.J., WELCH AND DRAKE, JJ.

WRIT DENIED ON THE SHOWING MADE.

VGW
EGD

Welch, J., dissents. Mrs. Maxwell offered no evidence in support of her motion to vacate establishing that the December 15, 2014 stipulated judgment was a judicial partition rather than a judicial recognition of an extrajudicial partition. See **Marks v. Marks**, 2011 WL 6779762. As such, she failed to demonstrate that La. R.S. 9:2802's prohibition against a judicial partition prior to a judgment terminating the matrimonial regime was applicable to the parties' consent judgment and that vacating the judgment was warranted. Therefore, I find that the trial court had no legal basis to vacate the stipulated judgment and that judgment should be reversed.

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT