

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

CLIFFORD S. NELSON, SR.

NO. 2016 CW 1429

VERSUS

THOMAS SMITH, JR.

DEC 28 2016

In Re: Clifford S. Nelson, Sr., applying for supervisory writs, 18th Judicial District Court, Parish of Pointe Coupee, No. 45928.

BEFORE: PETTIGREW, McDONALD AND CALLOWAY,¹ JJ.

WRIT GRANTED. The district court erred as a matter of law in finding that the district court lacked jurisdiction over the appeal filed by Clifford S. Nelson, Sr. Pursuant to the plain terms of La. Code Civ. P. art. 4925(A), "[t]he appellant from a judgment rendered by a justice of the peace court or the clerk of court shall file suit for a trial de novo in the district court or the parish court within fifteen days from the date of the judgment or from the service of notice of judgment, when such notice is necessary." Clifford S. Nelson, Sr.'s Petition for Suspensive Appeal must be construed so as to do substantial justice. La. Code Civ. P. article 865; **Metro Riverboat Associates, Inc. v. Louisiana Gaming Control Bd.**, 2001-0185 (La. 10/16/01), 797 So.2d 656, 660. Accordingly, Clifford S. Nelson, Sr. complied with La. Code Civ. P. art. 4925(A) requirements to appeal the judgment issued by the Justice of the Peace Court, Parish of Pointe Coupee, by petitioning the district court for a trial de novo, and the appeal was properly before the 18th Judicial District Court, which has jurisdiction to hear the appeal pursuant to a de novo trial. La. Code Civ. P. art. 4925(A); La. Const. art. V, § 16(B). Because the district court has jurisdiction over the appeal brought by Clifford S. Nelson, Sr., the district court should have considered all matters brought before it, including Clifford S. Nelson, Sr.'s claims against Thomas Smith, Jr.

Any reliance on Housing Authority of **St. John the Baptist Parish v. Butler**, 405 So.2d 1252 (La. App. 4th Cir. 1981) to require an order of appeal to be issued by a justice of the peace court is in error. Former La. Code Civ. P. art. 5004, on which the **Butler** court relied, was repealed by Act No. 156 in 1986, and current La. Code Civ. P. arts. 4924 and 4925, setting forth the procedure for appealing a judgment of a justice of the peace court, were enacted.

CAC
JTP
JMM

¹ **Calloway, J.**, serving as judge *pro tempore* of the Court of Appeal, First Circuit, by special appointment of the Louisiana Supreme Court.

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

NO. 2016 CW 1429
(PAGE 2 OF 2)

Therefore, the district court's judgment rendered on September 13, 2016 and signed on October 12, 2016 dismissing the appeal of Clifford S. Nelson, Sr. for lack of jurisdiction is reversed and vacated. The matter is remanded to the district court for consideration of Clifford S. Nelson, Sr.'s appeal and request for trial de novo of the judgment issued by the Justice of the Peace Court, Parish of Pointe Coupee, and all other matters in accordance with this action.

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT