

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

JAMES ROBINSON

NO. 2017 CW 1543

VERSUS

THE BOARD OF SUPERVISORS FOR  
THE UNIVERSITY OF LOUISIANA  
SYSTEM AND JOEY STRUM,  
INDIVIDUALLY AND IN HIS  
OFFICIAL CAPACITY AS CHIEF  
OF POLICE FOR THE UNIVERSITY  
OF LOUISIANA AT LAFAYETTE

DEC 01 2017

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In Re: The Board of Supervisors for the University of Louisiana System, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. 614860.

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**BEFORE: McCLENDON, WELCH AND THERIOT, JJ.**

**WRIT GRANTED IN PART WITH ORDER; WRIT DENIED IN PART.** The Louisiana Supreme Court has held that a "judgment creditor is entitled to examine his debtor even though the debtor is a public body." In the same ruling, however, it also held that such "examination must be conducted with regard to legal limitations on executing the subject judgment." **Hill on Behalf of Williams v. City of New Orleans**, 549 So.2d 858 (La.1989), citing **Fontenot v. State Through Dept. of Highways**, 355 So.2d 1324 (La.1978); see also **Barriere Const. Co. v. Tangipahoa Par. Gov't**, 2007-2367 (La. App. 1st Cir. 3/5/08), 985 So.2d 80 (per curiam). Under the circumstances presented in this matter, we conclude that the trial court did not err in denying relator, judgment debtor, Board of Supervisors for the University of Louisiana System's ("Board's") request for an order disallowing plaintiff James Robinson's motion for examination of judgment debtor.

However, we do conclude that the trial court erred in failing to grant the Board's motion for protective order in part for the purpose of crafting and issuing a protective order that limits the judgment debtor examination with regard to the legal limitations imposed by La. Const. art. 12, §10(C), La. R.S. 13:5109(B)(2) and controlling jurisprudence. The Louisiana constitution mandates that "no public property or funds shall be subject to seizure" and "no judgment against the state, a state agency ... shall be exigible, payable, or paid except from funds appropriated therefor by the legislature[.]" See **Newman Marchive Partnership, Inc. v. City of Shreveport**, 2007-1890 (La. 4/8/08), 979 So.2d 1262, 1271; **Hoag v. State**, 2004-0857 (La. 12/1/04), 889 So.2d 1019, 1023 (judgments rendered against the state are payable only by specific appropriation by the legislature). The Louisiana Supreme Court has interpreted the combined effect of La. Const. art. 12, §10(C) and La. R.S. 13:5109(B)(2) as mandating that a money judgment rendered against these governmental bodies can only be paid out of funds appropriated by the legislature or by political subdivision against which the

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judgment is rendered for the specific purpose of paying the subject judgment. **Newman**, 979 So.2d at 1266 (holding funds allocated to political subdivision's "Retained Risk Fund" were not a specific appropriation of funds to pay plaintiff's judgment and therefor were public funds not subject to seizure).

Accordingly, we grant the writ in part. We reverse the portion of the trial court's order reflected in the October 30, 2017 minute entry that denies the Board's motion for protective order in its entirety without limiting the scope of the examination to the legal limitations on executing the judgment. We further order that the judgment debtor examination of the Board is expressly limited to the production for examination all records, documents, or other information that the Board may have in its possession regarding funds specifically appropriated by the legislature for the specific purpose of paying plaintiff's judgment as ordered in **Robinson v. Board of Supervisors for the University of Louisiana System**, 2016-2145 (La. 6/29/17), 225 So.3d 424 at a date, time, and location to be selected by the trial court in its sole discretion.

PMc  
MRT

**WELCH, J., concurs.** I believe **Fontenot v. State**, 355 So.2d 1324 (La.1978) is wrongly decided and should be overruled. The intent of the Code of Civil Procedure article regulating the examination of judgment debtors is to assist creditors in executing their judgment by providing them a means to discover assets or property belonging to the debtor which may be subject to seizure. **Parish National Bank v. Lane**, 397 So.2d 1282, 1285 (La.1981); La. C.C.P. art. 2451. As evidenced by its placement in Book IV (Execution of Judgments), Title II ("Money Judgments"), and Chapter 5 ("Examination of Judgment Debtor"), a judgment debtor rule is part of the procedures provided for the execution of money judgments. As to money judgments rendered against the state, a state agency, or political subdivision, these procedures are expressly and clearly limited by the Louisiana Constitution in Article 12, §10(C) and by the legislature in La. R.S. 13:5109(B)(2). See **Newman Marchive Partnership, Inc. v. City of Shreveport**, 2007-1890 (La. 4/8/08), 979 So.2d 1262, 1266, 1271.

In accordance with **Newman**, the only question that could be asked under oath to the board at a judgment debtor exam is "Has the legislature appropriated money to pay this judgment?" This information is readily available through public websites, legislative acts or a public records request and to allow a judgment debtor exam for this limited inquiry seems pointless.

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DEPUTY CLERK OF COURT  
FOR THE COURT