

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2020 CW 0901

VERSUS

PROPERTY SEIZED FROM GREGORY COX

DECEMBER 22, 2020

In Re: State of Louisiana, applying for supervisory writs,
23rd Judicial District Court, Parish of Ascension, No.
114043.

BEFORE: McDONALD, McCLENDON, HOLDRIDGE, CHUTZ, AND PENZATO, JJ.

WRIT GRANTED. The district court's August 21, 2020 judgment, denying relator, the State of Louisiana's, Motion to Strike, is reversed. Respondent, Jonathon Alan Barrett, failed to comply with the mandatory requirements of La. R.S. 40:2610(B)(4) & (6) by failing to provide specific information concerning "the date, identity of the transferor, and the circumstances of [his] acquisition of the interest in the property." See **State v. \$144,320.00**, 2012-0466 (La. 12/4/12), 105 So.3d 694 & **State v. \$29,940.00 in U.S. Currency**, 2017-648 (La. App. 3d Cir. 8/31/17), 227 So.3d 304. Accordingly, the State of Louisiana's Motion to Strike is granted and respondent Barrett's claim is stricken from the underlying forfeiture proceeding.

JMM
PMc
AHP

Holdridge and Chutz, JJ., dissent. Unlike **State v. 2003 Infinity G35**, 2009-1193 (La 1/20/10), 27 So.3d 824, and **State v. \$144,320.00**, 2012-0466 (La 12/4/12), 105 So.3d 694 (where there was no proof of who owned the property in question), in this case the trial court made a factual finding that the money in question belonged to Mr. Barrett, a third party, and it was not money that could be properly seized by the State. In fact, the court made a determination that the money was earned by Mr. Barrett from his employment and that it was his accumulated savings from that employment. Since the trial court has made a factual determination of the ownership of the money by a third party, any attempt to seize those assets by the State because of a technical violation of La. R.S. 40:2610 would be illegal and unconstitutional.

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FOR THE COURT