# Supreme Court of Louisiana

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FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the **27th day of January, 2023** are as follows:

**BY McCallum, J.:**

*2022-C-00336* *PINEVILLE CITY COURT, ET AL. VS. CITY OF PINEVILLE, ET AL. (Parish of Rapides)*

REVERSED. TRIAL COURT JUDGMENT REINSTATED. SEE OPINION.

Hughes, J., dissents and would affirm the court of appeal.

Genovese, J., concurs in the result and assigns reasons.

**SUPREME COURT OF LOUISIANA**

**No. 2022-C-00336**

**PINEVILLE CITY COURT, ET AL.**

**VS.**

**CITY OF PINEVILLE, ET AL.**

On Writ of Certiorari to the Court of Appeal, Third Circuit, Parish of Rapides

**McCallum, J.**

In this mandamus action we determine whether the court of appeal erred in reversing the trial court's judgment that granted the City of Pineville's exception of no cause of action. The plain language of La. R.S. 13:1888 A mandates only a minimum salary amount that must be paid to the city court clerk and deputy clerks. The governing authorities have discretion to pay more than the mandated minimum salary. A mandamus action is an incorrect vehicle for the demand asserted by Pineville City Court because the underlying duty is not purely ministerial in nature. We find that the trial court correctly granted the exception of no cause of action.

## FACTS AND PROCEDURAL BACKGROUND

Previously, the Pineville City Court was fully funded by the City of Pineville. This funding included amounts for the salaries of three clerk positions and accompanying human resources services. In turn, the City Court reimbursed the City for forty-percent of those expenses. In November of 2020, the Pineville City Court informed the City of Pineville that it would no longer reimburse the forty-percent as it had done in the past. Thereafter, the City of Pineville sent notice that it would reduce payments of the clerks' salaries by forty-percent, cease providing payroll and human resources services, pay only sixty-percent of the clerks' retirement contributions, and discontinue the clerks' participation in the city's Blue Cross health plan.

On March 22, 2021, Pineville City Court and the Honorable Gary K. Hayes, in his capacity as judge of the Pineville City Court (collectively referred to as "City Court"), filed a Petition for a Writ of Mandamus against the City of Pineville and Clarence R. Fields, in his capacity as mayor of the City of Pineville (collectively referred to as "Pineville"). City Court sought an order that would require Pineville to fully fund City Court at the previously requested amounts. City Court alleged these amounts were reasonable and necessary for its operation. City Court further alleged such funding was mandatory pursuant to La. R.S. 13:1888 A, La. R.S. 13:1889, and the doctrine of inherent powers.[1] There was no allegation that Pineville was funding City Court at amounts below the required minimum set forth in the revised statutes.

Pineville responded by filing an exception of no cause of action. It asserted that under La. R.S. 13:1888 A, it was not required to fund City Court in any amounts higher than the statutory minimum, and that City Court failed to include any

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[1] Titled "Salary of clerk and deputy clerk," La. R.S. 13:1888 A provides:

> The salary of the clerks and of the deputy clerks, if any, may be fixed and paid in equal proportions by the respective governing authorities of the city and parish where the court is located; or it may be fixed and paid by either of them, or in such proportions as they may determine; except that the salary payable to the clerk shall not be less than $150 per month where the population of the territorial jurisdiction of the court is less than 10,000 and not less than $250 per month where the population of the territorial jurisdiction of the court is 10,000 or more; and except that the salary payable to the deputy clerk shall in no case be less than $150 per month.

Titled "Court room and offices," La. R.S. 13:1889 provides, in pertinent part:

> A. The city where the court is situated shall furnish a suitable city court room and suitable offices for the judge, clerk, and marshal. It shall also furnish adequate fireproof vaults or other filing equipment for the preservation of the records of the court.
>
> B. The expenses of operation and maintenance of the court room and offices shall be borne by the city, or may be apportioned between the city and parish as the respective governing authorities may determine.

"Under the doctrine of inherent powers, courts have the power (other than those powers expressly enumerated in the constitution and the statutes) to do all things reasonably necessary for the exercise of their functions as courts." *Konrad v. Jefferson Par. Council*, 520 So. 2d 393, 397 (La. 1988).

allegation that Pineville was violating the statutory mandate. Pineville further asserted that mandamus was not appropriate because the statute does not mandate a purely ministerial duty. Pineville argued that the statute affords discretion to the governing authorities as to the fixing and paying of salaries above the statutory minimum and as to the proportioning of responsibility between the applicable governing authorities as to the payment of such salaries. Thus, Pineville asserted that mandamus would only be appropriate in requiring the City to fund the Court at the statutory minimum and would not be appropriate as a means to order the City to pay discretionary amounts exceeding the statutory minimum.

The trial court agreed with Pineville. In granting Pineville's exception, the trial court found that mandamus, as an extraordinary remedy, should be sparingly used to compel only ministerial duties that are clearly defined by law. The trial court found City Court's alleged "reasonable and necessary" funding was not clearly defined, and therefore, mandamus was not a remedy available for City Court. The trial court further concluded that City Court's mandamus petition could not be cured by amendment, as it was an improper vehicle for the demand in the first place, and dismissed the suit.[2]

City Court appealed the decision to the Third Circuit Court of Appeal, which reversed the trial court's judgment and reinstated the City Court's petition. The court of appeal found that La. R.S. 13:1888 A mandates a ministerial duty, and does not provide for a discretionary action. *Pineville City Ct. v. City of Pineville*, 2021-415 (La. App. 3 Cir. 2/2/22), 333 So. 3d 1256, *writ granted*, 2022-00336 (La. 5/10/22), 338 So. 3d 1169. The court of appeal reasoned that, by setting only a statutory

[2] Louisiana Code of Civil Procedure Article 934 provides that a court sustaining a peremptory exception, such as an exception of no cause of action, should permit the petitioner to amend their petition when the ground thereof for the exception can be removed by amendment. However, amendment is not permitted when such would constitute a vain and useless act. *See Antonio Le Mon v. Nat.l Football League*, 2019-1264, p. 4 (La. 9/6/19), 277 So. 3d 1166, 1169; *Alexander and Alexander, Inc. v. State, Div. of Administration*, 486 So. 2d 95, 100 (La. 1986).

minimum, the statute recognized that clerk salaries above the minimum may be reasonable and necessary, depending on the situation of the court. *Id.*, p.6, 333 So. 3d at 1261. It further found such reasonable and necessary funding was mandatory under the inherent powers allotted to courts pursuant to La. Const. art. 5, §§ 1 and 15(A) in order to allow them to operate. *Id.*, pp. 6-7, 333 So. 3d at 1261. Observing that courts are constitutionally established and have a right to exist, the court of appeal found that "the judicial branch possesses the inherent power to compel reasonable and necessary appropriations to serve the public as the state constitution mandates." *Id.* Based on that reasoning, the court of appeal held that Judge Hayes was charged as the administrator of the City Court to ensure it could properly provide its services to the public, which inherently includes an obligation to determine the reasonable and necessary funding required to sufficiently operate the court. *Id.* Thus, the court of appeal found that City Court stated a cause of action because the duty of Pineville to provide reasonable and necessary funding, regardless of the statutory minimum, was ministerial in nature and did not provide any discretion to the governing authority.

Thereafter, Pineville sought a writ of certiorari with this Court. We granted writ to determine whether the implementation of La. R.S. 13:1888 A is a ministerial duty and whether an action in mandamus is the appropriate vehicle by which City Court may seek alleged reasonable and necessary funding above the statutory minimum from Pineville.

## LAW AND DISCUSSION

Article 3862 of the Louisiana Code of Civil Procedure governs mandamus and provides the following:

> A writ of mandamus may be issued in all cases where the law provides no relief by ordinary means or where the delay involved in obtaining relief may cause injustice; provided, however, that no court shall issue or cause to be issued a writ of mandamus to compel the expenditure of state funds by any state department, board or agency, or any officer,

> administrator or head thereof, or any officer of the state of Louisiana, in any suit or action involving the expenditure of public funds under any statute or law of this state, when the director of such department, board or agency or the governor shall certify that the expenditure of such funds would have the effect of creating a deficit in the funds of said agency or be in violation of the requirements placed upon the expenditure of such funds by the legislature.

This Court has routinely held that the only circumstances under which courts may cause writs of mandamus to issue are where the actions sought to be performed are imposed by law and are purely ministerial in nature. *See Hoag v. State*, 2004-0857, p. 6 (La. 12/1/04), 889 So.2d 1019, 1023. "'Mandamus is a writ directing a public officer ... to perform' 'a ministerial duty required by law.'" *Jazz Casino Company, L.L.C. v. Bridges*, 2016-1663, p. 5 (La. 5/3/17), 223 So.3d 488, 492 (citing La. C.C.P. arts. 3861 and 3863).[3] "A 'ministerial duty' is one 'in which no element of discretion is left to the public officer,' in other words, 'a simple, definite duty, arising under conditions admitted or proved to exist, and imposed by law.'" *Id*. (citing *Hoag*, 2004-0857, p. 7, 889 So.2d at 1024). "If a public officer is vested with any element of discretion, mandamus will not lie." *Id*. (citing *Landry v. City of Erath*, 628 So.2d 1178, 1180 (La. App. 3 Cir. 1993), *writ denied*, 1994-0275 (La. 3/25/94), 635 So. 2d 235).

We are called upon to determine whether City Court has stated a cause of action for the issuance of a writ of mandamus based on the applicable law. "The exception of no cause of action tests the legal sufficiency of the petition by determining whether the law affords a remedy on the facts alleged in the pleading."

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[3] Titled "Definition," La. C.C.P. art. 3861 provides:

> Mandamus is a writ directing a public officer, a corporation or an officer thereof, or a limited liability company or a member or manager hereof, to perform any of the duties set forth in Articles 3863 and 3864.

Titled "Person against whom writ directed," La. C.C.P. art. 3863 provides:

> A writ of mandamus may be directed to a public officer to compel the performance of a ministerial duty required by law, or to a former officer or his heirs to compel the delivery of the papers and effects of the office to his successor.

*State ex rel. Tureau v. BEPCO, L.P.*, 2021-0856, p. 17, (La. 10/1/22), --- So. 3d ---, 2022 WL 12338524. "The burden of demonstrating that a petition fails to state a cause of action is on the mover, and a petition should be dismissed for failure to state a cause of action only when it appears beyond doubt that the plaintiff can prove no set of facts in support of any claim which would entitle him to relief." *Id.*

Our Civil Code gives clear directions in our endeavor. Legislation is a solemn expression of legislative will. La. C.C. art. 2. When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislation. La. C.C. art. 9. When the language of the law is susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law. La. C.C. art. 10. The words of a law must be given their generally prevailing meaning. La. C.C. art. 11.

Louisiana Revised Statute 13:1888 A provides discretion to the governmental authorities.[4] The statute provides that "[t]he salary of the clerks and of the deputy clerks, if any, *may* be fixed and paid in equal proportions by the respective governing authorities of the city and parish where the court is located; or it *may* be fixed and paid by either of them, or in such proportions as they *may* determine." (Emphasis added). Louisiana Revised Statute 1:3 instructs that "[t]he word 'shall' is mandatory and the word 'may' is permissive." Louisiana Revised Statute 13:1888 A provides discretion to the governmental authorities by allowing them to proportion the responsibility for paying the salaries between the city and parish as these entities

[4] City Court cited La. R.S. 13:1889 in its petition. However, the record, arguments before this Court and the lower courts, and the briefs filed with this Court show that La. R.S. 13:1889 is not truly at issue. In fact, City Court only mentions La. R.S. 13:1889 once, in passing, on page 19 of its brief submitted to this Court. Therefore, our analysis focuses on the pertinent La. R.S. 13:1888 A, which both parties consistently cited and argued. Nevertheless, La. R.S. 13:1889 deals with expenses attendant to the operation and maintenance of the courtroom and offices; i.e., the physical plant.

choose. In fact, the statute clearly contemplates that Pineville could even bear no share of the responsibility for paying the salaries.

The only mandate found in La. R.S. 13:1888 A is "that the salary payable to the clerk shall not be less than $150 per month where the population of the territorial jurisdiction of the court is less than 10,000 and not less than $250 per month where the population of the territorial jurisdiction of the court is 10,000 or more; and except that the salary payable to the deputy clerk shall in no case be less than $150 per month." The statute does not expressly provide any compulsory language for payments exceeding the statutory minimums, nor does it clearly define any amounts exceeding the minimums for which the governing authorities are mandated responsibility. We agree with Pineville that the minimum salaries for the clerk and deputy clerks are clearly mandated; any amounts above the minimums are not statutorily specified. Since a critical element necessary for the issuance of a writ of mandamus is that the public official to whom the writ is directed may exercise no element of discretion when complying with a statute, City Court cannot state a cause of action for the issuance of a writ of mandamus.[5]

City Court suggests the minimum salary amounts which were set in La. R.S. 13:1888 A at the time of its enactment in 1960 are no longer reasonable. This forms their underlying argument that strictly applying those amounts today leads to an absurd result. While we recognize that those amounts may not meet the current salary levels paid by City Court to its clerks, such is a policy concern involving discretion exercised by the legislative branch of government. Whether requiring a city court to bear a greater proportion of its expenses leads to absurd results is a matter of one's perspective. In this case, absurdity lies within the eyes of the beholder.

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[5] Pineville is not only meeting the statutory minimums, but is exceeding the minimums. It is uncontested that City Court failed to plead that Pineville was paying below the minimums mandated in La. R.S. 13:1888 A.

City Court also presses arguments based on the doctrine of inherent powers, and contends that it has inherent authority to require sufficient funding for the expenses required for it to perform its duties. In that regard, City Court relies heavily on our recent opinion in *Lowther v. Town of Bastrop*, 2020-1231 (La. 5/13/21), 320 So. 3d 369. However, in *Lowther*, the city's ministerial duty to pay derived from a monetary judgment, which, in turn, was obtained based on specific statutes.[6] *See Id.*, pp. 6-7, 320 So. 3d at 370, 373-74. In *Lowther*, we simply found no merit in the town's argument that the nature of the matter being reduced to a monetary judgment was determinative as to whether the action to compel the town to appropriate the funds to pay the specific judgment is discretionary. *Id*. We did not provide a blanket holding, as City Court suggests, that any implicit duty alleged to be found in the state constitution would satisfy the requirement of a ministerial duty in order to properly plead a mandamus action. In *Lowther*, we did not constrain our analysis solely to consideration of the constitution. As we noted in that matter, the firefighters' suit against the city was to enforce statutory minimum salaries based on rank, statutorily mandated longevity raises, and equal compensation to firefighters performing equal work. *See Id.*, p. 4, pp.7-8, 320 So. 3d at 371, 374 (citing La. R.S. 33:1992 A, La. R.S. 33:1992 B, and La. R.S. 33:1969). Reinforcing our finding, we even specifically pointed out that "[t]he Firefighters are only requesting the courts to enforce the positive law and not legislate a judicial solution." *Id.*, p. 5, 320 So. 3d at 372.

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[6] In *Lowther*, former and current firefighter employees of the town of Bastrop filed a petition for a writ of mandamus seeking enforcement of a judgment they had already procured against Bastrop after alleging the town owed them statutorily mandated back pay and other wages. *See Lowther*, 2020-1231, pp. 3-4, 320 So. 3d at 371-72. Bastrop argued that although the payment of the back pay and other wages was statutorily mandated, once the firefighters had obtained a judgment confirming and quantifying the city's monetary obligation, then the firefighters became indistinguishable from any other judgment creditor, and therefore the city had discretion in paying the judgment. *Id.* We granted writ to determine whether the duty to pay the judgment was ministerial. *Id.*

City Court's reliance on other cases in which the doctrine of inherent powers was applied to support its argument is misplaced. In *City Ct. of Breaux Bridge v. Town of Breaux Bridge*, 440 So. 2d 1374 (La. App. 3 Cir. 1983), *writ denied sub nom.*, *City of Breaux Bridge v. Town of Breaux Bridge*, 444 So. 2d 1219 (La. 1984), a local authority refused to pay certain expenses of the city court, including postage, costs for printing forms, telephone expenses and expenses associated with the upkeep of the library. Although the court of appeal found that "the power of the City Court to require that all its necessary expenses of operating the court be provided by the legislative body of the Town lies in the inherent power of the City Court," *Id.*, 440 So. 2d at 1375, a cause of action for mandamus was appropriately allowed because the payment of those expenses was mandated by statute. In fact, the court of appeal even took note that La. R.S. 13:2488.76, a statute directed specifically to the town of Breaux Bridge, provides that "[t]he expenses of operation and maintenance of the courtroom and offices *shall* be paid by the town of Breaux Bridge." *Id.*, 440 So. 2d at 1375 (emphasis added).

City Court also cited *McCain v. Grant Par. Police Jury*, 440 So. 2d 1369, 1370 (La. App. 3 Cir. 1983). *McCain* involved an action for mandamus filed by a judge of the Thirty-Fifth Judicial District Court seeking to compel the Grant Parish Police Jury to "budget funds necessary for the effective and efficient operation of the district court." *Id.* The *McCain* court found that "courts have the inherent power to compel the guardians of the public fisc, in this case, the Police Jury of Grant Parish, to budget adequate funds for the operations of the court to insure that the proper independence among our three co-equal branches of government be maintained." *Id.* However, in *McCain*, we again note that the funding at issue was for physical operation of the court, including telephone services, copiers, recording equipment, office supplies, and reference materials. The payment for these expenses was clearly required as statutorily mandated operational expenses. *See Id.*, 440 So.

2d at 1371-72, n.4; La. R.S. 33:4713 (providing that "A. Each parish *shall* provide and bear the expense of a suitable building and requisite furniture for the sitting of the district and circuit courts and such offices, furniture, and equipment as may be needed by the clerks and recorders of the parish for the proper conduct of their offices and *shall* provide such other offices as may be needed by the sheriffs of these courts and by the tax collectors and assessors of the parish and *shall* provide the necessary heat and illumination therefore.") (emphasis added).

We note that the court of appeal cited to its previous jurisprudence, notable, the two aforementioned cases, *McCain* and *Breaux Bridge*, in stating that "'[c]learly, the courts of this state are established by our constitution ... and have a right to exist.' To that end, the judicial branch possesses the inherent power to compel reasonable and necessary appropriations to serve the public as the state constitution mandates." *Pineville City Ct.*, 2021-415, p. 7, 333 So. 3d at 1261. In *Konrad*, we noted that in cases before this Court, the Court applied the doctrine in specific situations: "to stop traffic around the courthouse in Orleans Parish because the noise interrupted court proceedings, to regulate admission to the bar and define the practice of law, to require an attorney to represent an indigent, to establish standards governing the conduct of lawyers and to override statutes which tend to impede or frustrate this authority, … and to award a fee for the attorney, appointed by the court to represent an indigent natural parent in an abandonment proceeding, against the state agency which initiated the proceeding." *Konrad*, 520 So. 2d at 398 (internal citations omitted). These cases reveal that we have limited the application of the doctrine to the specific circumstances and facts of each case presented. We have even noted "the inherent powers of the judiciary should be used sparingly and only to the extent necessary to insure judicial independence and integrity." *Id.*, 520 So. 2d at 397 (citing *Imbornone v. Early*, 401 So. 2d 953 (La. 1981) (Dennis, J. dissenting on original hearing)). We recently stated, "Mandamus is to be used only when there is

a clear and specific legal right to be enforced or a duty that ought to be performed. *It never issues in doubtful cases*." *Texas Brine Co., LLC v. Naquin*, 2019-1503, p. 7 (La. 1/31/21), 340 So. 3d 720, 725 (per curiam) (emphasis added). The Legislature has spoken plainly, if not recently, by enacting La. R.S. 13:1888 A, which clearly provides for discretionary authority on the part of the governing authorities. We are "compelled to exercise judicial restraint and refrain from encroaching upon the constitutional delegation of power to the legislative branch. . . ." *Hoag*, 2004-0857, p. 8, 889 So. 2d at 1025.[7]

Finally, City Court raises new arguments it did not plead and which were not addressed by the trial court as to due process concerns that may arise if this Court were to rule in favor of Pineville. City Court implies that La. R.S. 13:1888 A, as written, is unconstitutional. City Court asserts this Court must interpret the statute in a way that updates the language and minimums of the statute to meet the current needs of court expenses in modern times. However, as stated *supra*, and as we provided in *Lowther*, although we will not hesitate to enforce positive law, we will not "legislate a judicial solution" when the positive law is either otherwise clear, or nonexistent. *See Lowther*, 2020-1231, p. 5, 320 So. 3d at 372. As to any implication that La. R.S. 13:1888 A is unconstitutional, we decline to address such, as it was not specifically pleaded, nor considered by the lower courts.[8]

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[7] In applying the doctrine of inherent powers, the court of appeal stated, "The Court is one of a class of courts retained by La. Const. art. 5, §§ 1 and 15(A)." *Pineville City Ct.*, 2021-415, pp. 7-8, 333 So. 3d at 1261. The court in question, as a city court, is a court of limited jurisdiction. La. C.C.P. art. 4832 ("Trial courts of limited jurisdiction are parish courts, city courts, and justice of the peace courts."). In *Konrad*, we addressed this very argument in dealing with a juvenile court, which likewise is a court of limited jurisdiction. We stated, "Juvenile courts and other courts of limited jurisdiction are given less constitutional protection than courts of general jurisdiction. While such courts were retained by La. Const. art. V, § 15, the Legislature is authorized to abolish or merge them." *Konrad*, 520 So. 2d at 398; La. Const. art. V, § 15 (A). Recognizing such authority further compels us to exercise judicial restraint, especially where the Legislature has enacted applicable, positive law.

[8] "This Court has stated that, while there is no single required procedure or type of proceeding for attacking a statute's constitutionality, 'the long-standing jurisprudential rule of law is … the unconstitutionality of a statute must be specially pleaded and the grounds for the claim particularized.'" *State v. Schoening*, 2000-0903, p. 3 (La. 10/17/00), 770 So. 2d 762, 763 (citing

Ultimately, we find City Court has failed to show that its petition for mandamus was an appropriate vehicle for its action. The statutory language at issue, and the nature of the demand by City Court, clearly have discretional elements left to the governing authorities. Although City Court could properly seek a mandamus to fund the statutory minimum, it has not pleaded, nor do the facts show, that Pineville is funding below the statutory minimum. It is abundantly clear that Pineville is funding City Court above the minimum set out by the Legislature. Therefore, we agree with the trial court and find merit in Pineville's exception of no cause of action. Because there is no possibility City Court can remove the defect by amendment, we agree with the trial court that amendment under La. C.C.P. art. 934 was not warranted.

**DECREE**

In accordance with the above, we reverse the court of appeal, and reinstate the judgment of the trial court, sustaining the exception of no cause of action and dismissing the suit with prejudice.

**REVERSED; TRIAL COURT JUDGMENT REINSTATED.**

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*Vallo v. Gayle Oil Co., Inc.*, 1994-1238, p. 8 (La. 11/30/94), 646 So. 2d 859, 864-65); *State v. Bazile*, 2011-2201, p. 5 (La. 1/14/12), 85 So. 3d 1, 7.

**SUPREME COURT OF LOUISIANA**

**No. 2022-C-00336**

**PINEVILLE CITY COURT, ET AL.**

**VS.**

**CITY OF PINEVILLE, ET AL.**

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, THIRD CIRCUIT, PARISH OF RAPIDES**

**GENOVESE, J., concurs in the result for the following reasons:**

I concur in the result reached by the majority in this matter. I agree that the Pineville City Court employed the wrong procedural vehicle in its pursuit of adequate funding for its court. I write separately to opine that that does not preclude its right to pursue, via ordinary proceedings, funding from the City of Pineville that is reasonable and necessary for the constitutionally authorized operation of the Pineville City Court.