

INDIVIDUAL MEMBERS OF THE GRAND  
LODGE OF THE STATE OF LOUISIANA

NO. 19-C-59

VERSUS

FIFTH CIRCUIT

GUY JENKINS, MARTIN REINSCHMIDT, AND  
THE ELECTED BOARD OF DIRECTORS OF  
THE GRAND LODGE OF THE STATE OF  
LOUISIANA

COURT OF APPEAL

STATE OF LOUISIANA

March 13, 2019

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Susan Buchholz  
First Deputy Clerk

IN RE GUY JENKINS, MARTIN REINSCHMIDT, AND THE ELECTED BOARD OF DIRECTORS OF THE  
GRAND LODGE OF THE STATE OF LOUISIANA

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**APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,  
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE DANYELLE M.  
TAYLOR, DIVISION "O", NUMBER 785-301**

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Panel composed of Judges Fredericka Homberg Wicker,  
Robert A. Chaisson, and Stephen J. Windhorst

**WRIT GRANTED. STAY DENIED.**

Defendants/relators, Guy Jenkins, Martin Reinschmidt, and the Elected Board of Directors of the Grand Lodge of the State of Louisiana seek review of the district court's denial of their motion for suspensive appeal of the district court's January 31, 2019 judgment granting plaintiffs' petition for writ of quo warranto and ordering injunctive relief in their favor. The district court denied defendants' motion for suspensive appeal, finding that the judgment granted injunctive relief, and thus falls under La. C.C.P. art. 3612, which provides that an appeal from a judgment relating to a preliminary or final injunction shall not be suspended during the pendency of an appeal unless the court in its discretion so orders. This Court ordered supplementation of the writ application with portions of the transcript from the hearing on the motion for suspensive appeal. Plaintiffs/respondents filed their opposition to the writ application on February 27, 2019.

Plaintiffs filed a petition for quo warrant against defendants and requested the following: (1) reinstatement to full membership; (2) defendants be enjoined from suspending or expelling plaintiffs; (3) full and unrestricted access to the next Grand Lodge members' meeting; (4) reports by Appeals and Grievances Committee be quashed; (5) consideration of all resolutions in their entirety by the representatives of the membership; (6) defendants be enjoined from restricting consideration of resolutions submitted for a meeting; (7) that a meeting and elections be held in Jefferson Parish within ninety days of the filing of the petition for quo warranto; (8)

that defendants bear all costs of proceedings; and (9) all improperly rejected resolutions be submitted at the next meeting.

Defendants/relators assert that they are entitled to a suspensive appeal because the party cast in a quo warranto proceeding has the right to appeal suspensively, and the challenged judgment grants a writ of quo warranto not injunctive relief. Plaintiffs/respondents assert that the district court has the authority to grant injunctive relief in a quo warranto proceeding, that the judgment encompasses injunctive relief, and, as a result, defendants are not entitled to a suspensive appeal under La. C.C.P. art. 3612.

Upon review of the writ application, attachments thereto and particularly the judgment at issue, we find that the relators are entitled to a suspensive appeal. Generally, suspensive appeal is the rule; the non-suspensive appeal is the exception. Ramos v. Ramos, 173 La. 407, 409, 137 So. 196, 197 (1927). Louisiana courts have narrowly construed exceptions to the general right of suspensive appeal and have concluded that general principles governing appeal are applicable to review of judgments in quo warranto. See Pioneer Petroleum Corp. v. Gertler, 187 So.2d 205 (La. App. 4 Cir. 1966). Thus, when a statute provides an exception to such a legal right as appeal, it must be construed narrowly and its application limited to the language of the statute.

Although La. C.C.P. art. 3612 sets forth specific exceptions for TRO's, preliminary injunctions, and "final" injunctions, it does not set forth an exception for suspensive appeals from issuance of a writ of quo warranto. In Pioneer Petroleum, *supra*, after issuing a detailed writ of quo warranto with a series of imperatives and prohibitions as in this case, the trial court then denied a suspensive appeal. The appellate court granted a suspensive appeal to the party seeking review of the judgment granting the writ of quo warranto.

This case similarly involves grant of a quo warranto. Plaintiffs' original petition was titled petition for writ of quo warranto. The allegations of the petition focus on defendants' failure to comply with the Grand Lodge's Handbook of Masonic Law, which presents the Constitution, General Regulations, and Edits of the Grand Lodge. A quo warranto proceeding can address whether an individual has authority to exercise certain powers, and such appears to be an issue here. While the district court's judgment specifically granted plaintiffs' petition for quo warranto as well as injunctive relief, the district court may award injunctive relief in connection with a writ of quo warranto. Thorton v. Carthon, 47,948 (La. App. 2 Cir. 5/15/13), 114 So.3d 554. Although the case before us involves injunctive relief related to a writ of quo warranto, we conclude that this is a quo warranto proceeding, and that therefore, C.C.P. art. 3612 does not apply. Moreover, inasmuch as there is no exception to a suspensive appeal for a writ of quo warranto, the general rules of appeal apply and thus indicate that relators are entitled to a suspensive appeal.

In addition, in Antwine v. Winfield, 2015-1850 (La. App. 1 Cir. 9/16/16), 203 So.3d 454, 460, the appellate court found that although the trial court used the word "enjoined" in its judgment when referring to the action of defendants and that plaintiffs requested injunctive relief separate and apart from their request for a writ of quo warranto in their petition, the trial court's judgment appeared to be a judgment on the merits of the petition for quo warranto. The judgment stated that it is on a petition for writ of quo warranto and granted relief consistent with the grant of a quo warranto writ. See La. C.C.P. art. 3902. The court found that the general rules of

appeal, establishing thirty-day and sixty-day delays to take an appeal, applied to that judgment. See La. C.C.P. arts. 2123 and 2087.

Finally, injunctive relief under La. C.C.P. art. 3601 requires a finding of irreparable injury, loss, or damage. Here, plaintiffs/respondents did not allege or prove irreparable injury, and there was no finding of irreparable injury by the trial court.

In light of the foregoing, we find that this case involves a writ of quo warranto, and that defendants are entitled to a suspensive appeal. We therefore reverse the trial court's judgment denying the motion for suspensive appeal, and we grant relators' motion for suspensive appeal. Given the impending deadline for relators to perfect their suspensive appeal and that such cannot be extended, we set the bond in this matter at \$2,500 to cover the costs for which relators were cast in judgment.

Gretna, Louisiana, this 13th day of March, 2019.

**SJW**  
**FHW**  
**RAC**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
ROBERT A. CHAISSON  
STEPHEN J. WINDHORST  
HANS J. LILJEBERG  
JOHN J. MOLAISON, JR.

JUDGES



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CHERYL Q. LANDRIEU  
CLERK OF COURT

MARY E. LEGNON  
CHIEF DEPUTY CLERK

SUSAN BUCHHOLZ  
FIRST DEPUTY CLERK

MELISSA C. LEDET  
DIRECTOR OF CENTRAL STAFF

(504) 376-1400  
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**NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **03/13/2019** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY

CHERYL Q. LANDRIEU  
CLERK OF COURT

**19-C-59**

**E-NOTIFIED**

Karen M. Dicke (Relator)  
Stephen M. Petit, Jr. (Respondent)

Jason C. Bruzik (Respondent)  
James V. King, III (Relator)  
Scott L. Sternberg (Respondent)

**MAILED**