

LAKEWOOD PALMS, LLC

NO. 22-C-259

VERSUS

FIFTH CIRCUIT

MYOSHIA JENNINGS

COURT OF APPEAL

STATE OF LOUISIANA

June 20, 2022

FIFTH CIRCUIT COURT OF APPEAL  
A TRUE COPY OF DOCUMENTS AS  
SAME APPEARS IN OUR RECORDS



Mary E. Legnon  
Interim Chief Deputy, Clerk of Court

Mary E. Legnon  
Chief Deputy Clerk

IN RE LAKEWOOD PALMS, LLC

**APPLYING FOR** SUPERVISORY WRIT FROM THE TWENTY-NINTH JUDICIAL DISTRICT COURT,  
PARISH OF ST. CHARLES, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE TIMOTHY S.  
MARCEL, DIVISION "E", NUMBER 90,536

Panel composed of Judges Susan M. Chehardy,  
Fredericka Homberg Wicker, and Jude G. Gravois

### WRIT DENIED

Relator, Lakewood Palms, LLC, seeks supervisory review of the district court's Order that stayed the justice of the peace judgment of eviction entered against respondent, Myoshia Jennings. Lakewood contends that the district court's Order fails to comply with La. C.C.P. art. 4735, which states that in order to suspend the execution of a judgment of eviction on appeal, a defendant must: (1) file an answer to the rule, under oath, which sets forth an affirmative defense that entitles her to remain in possession of the premises pending an appeal, and (2) apply for a suspensive appeal, and file the suspensive appeal bond within 24 hours of the signing of the judgment. Lakewood argues that the judgment should not be stayed because Ms. Jennings did not file an answer to the rule or set forth affirmative defenses, nor did she file her suspensive appeal bond within 24 hours of the signing of judgment.

Respondent argues that she is not bound by the provisions of La. C.C.P. art. 4735 and that she timely sought a trial *de novo* in the district court pursuant to La. C.C.P. arts. 4924 and 4925. Further, she contends that she filed a bond within 24 hours of the district court's order setting the bond amount. She points out that she could not file a bond until the district court set an amount, but once the amount had been set, she filed the bond even before being served with the order setting the bond amount.

We find the procedural articles governing an appeal from a justice of the peace court, La. C.C.P. arts. 4924 and 4925, control in these circumstances rather

than La. C.C.P. art. 4735. *See Augillard v. Strauss*, 15-1241 (La. App. 1 Cir. 8/14/15) (unpublished writ disposition). Ms. Jennings timely sought an appeal of the justice of the peace judgment of eviction by filing her petition for trial *de novo* in the district court. *Id.* As such, Lakewood is not entitled to the relief it seeks, and the writ application is denied.

Gretna, Louisiana, this 20th day of June, 2022.

**SMC**  
**FHW**  
**JGG**

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. MOLAISSON, JR.

JUDGES



FIFTH CIRCUIT  
101 DERBIGNY STREET (70053)  
POST OFFICE BOX 489  
GRETNA, LOUISIANA 70054  
[www.fifthcircuit.org](http://www.fifthcircuit.org)

CURTIS B. PURSELL  
CLERK OF COURT  
MARY E. LEGNON  
INTERIM CHIEF DEPUTY CLERK

SUSAN S. 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 **06/20/2022** 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 COUNSEL, AS LISTED BELOW:

**CURTIS B. PURSELL**  
CLERK OF COURT

**22-C-259**

**E-NOTIFIED**

29th Judicial District Court (Clerk)  
Honorable Timothy S. Marcel (DISTRICT JUDGE)  
Christopher Kerrigan (Respondent)

Mark C. Landry (Relator)  
David H. Williams (Respondent)

**MAILED**