

**STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700**

No. 56,173-CW

STATE OF LOUISIANA

VERSUS

\$1,194 U.S. CURRENCY SEIZED
FROM OTIS O. WINN

FILED: 10/04/24

RECEIVED: E-FILED 10/04/24

On application of State of Louisiana for SUPERVISORY WRIT in No. 24-0258 on the docket of the Fourth Judicial District, Parish of OUACHITA, Judge Larry Donell Jefferson.

Robert Stephen Tew
Gregory Scott Moore

Counsel for:
State of Louisiana

Before PITMAN, STONE, and STEPHENS, JJ.

WRIT GRANTED AND MADE PEREMPTORY.

The applicant, State of Louisiana, seeks supervisory review of the trial court's denial of its "Motion to Set Aside and Vacate the Court's Order for Transfer of Civil Drug Asset Forfeiture Case from the Randomly Assigned Section 1 of the Civil Division to Section [2] of the Criminal Division." The "Order of Transfer," signed January 25, 2024, was required by the Fourth Judicial District Court's Local District Court Rule Appendix 9.4, specifically 9.4(B), which became effective November 15, 2023. This rule requires the civil section judge to whom the matter was originally randomly allotted to transfer the civil asset forfeiture proceeding to the section of the court to which the criminal proceeding was allotted to be adjudicated by the judge presiding over criminal cases in that section. Applicant sought an order vacating the transfer which the trial court summarily denied. The State challenges the trial court's denial of its motion to vacate the transfer of the case from its initial random allotment in the civil division to the criminal division without the consent of the State in violation of the transfer requirements of La. C.C.P. art. 253.2.

La. C.C.P. art. 253.2 prohibits the transfer of a case from one section or division to another section or division after the case has been assigned to a particular section or division of the court unless agreed to by all parties, to effect a consolidation under La. C.C.P. art. 1561, or when a Supreme Court rule permits the transfer. A court may adopt rules for the conduct of judicial business before it, including those governing matters of practice and procedure that are not contrary

to the rules provided by law. La. C.C.P. art. 193. Local rules of court cannot conflict with legislation. *State of Louisiana v. Sprint Communications Company, L.P.*, 96-3094 (La. 9/9/97), 699 So. 2d 1058; *Devereux v. Atkins*, 51,473 (La. App. 2 Cir. 6/21/17), 224 So. 3d 1160.

In this matter, we find that the trial court erred in denying the State’s request to vacate the January 25, 2024, order of transfer. Without the consent of the State or other qualifying exceptions, application of La. R. Dist. Ct. App. 9.4(B) to transfer this matter is in direct conflict with La. C.C.P. art. 253.2. The writ is hereby granted and the ruling of the trial court denying the State’s motion to set aside and vacate is reversed. The motion to vacate the transfer is hereby granted and it is ordered that this civil forfeiture proceeding is to proceed before Section 1 of the civil division to which it was originally randomly assigned in the Fourth Judicial District Court. Consideration of the remaining arguments of the State is pretermitted. The deferred filing fees in the amount of \$206.00 are assessed to the State.

Shreveport, Louisiana, this 7 day of November, 2024.

JMS JJO SDS

FILED: November 7, 2024

Stacy Dwyer
DEPUTY CLERK