

The Supreme Court of the State of Louisiana

THE ESTATE OF ERNESTINE KNOX

No. 2024-C-00516

VS.

GREGORY BANKS

IN RE: Deborah Knox - Applicant Other; Applying For Writ Of Certiorari, Parish
of East Baton Rouge, 19th Judicial District Court Number(s) 704,690, Court of
Appeal, First Circuit, Number(s) 2023 CA 0762;

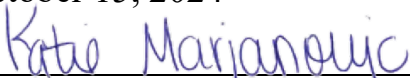
October 15, 2024

Writ application granted. See per curiam.

JTK
JDH
SJC
JBM
PDG

Weimer, C.J., dissents and would deny.
Crain, J., concurs.

Supreme Court of Louisiana
October 15, 2024



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-C-00516

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**On Writ of Certiorari to the Court of Appeal, First Circuit, Parish of East
Baton Rouge**

PER CURIAM:

WRIT GRANTED. It is undisputed the incomplete record was attributable to the Defendant, not the Plaintiff, when the Defendant failed to file copies of his Exhibits A-F in the trial court, after these exhibits were admitted into evidence during the bench trial held via Zoom.¹ Louisiana Code of Civil Procedure Article 2161 provides in part: “[A]n appeal shall not be dismissed because the trial record is missing, incomplete or in error no matter who is responsible, and the court may remand the case either for retrial or for correction of the record. An appeal shall not be dismissed because of any other irregularity, error or defect unless it is imputable

¹ Responding to the court of appeal’s order for the Clerk of Court for the Nineteenth Judicial District Court to supplement the record with the exhibits that were introduced at the bench trial by the Defendant, the Clerk of Court responded that this bench trial was held via Zoom and “[w]here the exhibits were offered and introduced during the bench trial, the actual hard copies of the evidence were never turned in to the [Clerk of Court’s Office].”

to the appellant.” *See Thomas v. Thomas*, 16-0570 (La. App. 4 Cir. 3/15/17), 214 So.3d 97 (wherein the exhibits admitted during the trial were not in the record due to circumstances not attributable to the appellant, and the appellate court, citing La. C.C.P. art. 2161, remanded the matter to the trial court for the limited purpose of correcting the record); *see also*, La. C.C. P. art. 2088 (which allows, after jurisdiction has been divested to the appellate court, the trial court to have limited jurisdiction over certain matters including “correct any misstatement, irregularity, informality, or omission of the trial record, as provided in Article 2132.”). As the incomplete record was not attributable to the Plaintiff, the appellate court erred in affirming the trial court’s judgment without a complete record. Accordingly, the appellate court’s decision is reversed, and the matter is remanded to the trial court for the limited purpose of Defendant filing Exhibits A-F in the record. Once the record is corrected on remand, the appeal may be re-docketed in the appellate court upon the lodging of the necessary supplemental record.