

SUPREME COURT OF LOUISIANA

State of Louisiana Board of Ethics v. Corbett Ourso, Jr.

842 So. 2d 346 (La. 2003) · No. 2002-C-1978 · Decided April 9, 2003

SUMMARY

The Supreme Court of Louisiana held that the time limitation in La. R.S. 18:1511.11(B) for bringing enforcement actions under the Campaign Finance Disclosure Act is prescriptive rather than peremptive. Accordingly, the period may be renounced, and the court reversed the lower courts' dismissal and remanded for consideration of whether any claims remained prescribed despite the respondent's waiver.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Victory, J.
JURISDICTION	Louisiana
DECIDED	April 9, 2003
DOCKET	2002-C-1978
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Louisiana Supreme Court granted the Board of Ethics' writ application to determine whether the filing period in La. R.S. 18:1511.11(B) is prescriptive or peremptive.
STANDARD OF REVIEW	De novo review of the legal classification of the statutory time limitation as prescriptive or peremptive.
PRECEDENTIAL VALUE	published Louisiana Supreme Court opinion
PARTIES	State of Louisiana Board of Ethics v. Corbett Ourso, Jr.

TOPICS

- campaign finance
- election law
- statutory interpretation
- appellate jurisdiction
- appellate procedure

PRACTICE AREAS

- election law
- campaign finance
- administrative law
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether the one-year filing period for campaign-finance enforcement actions under La. R.S. 18:1511.11(B) is prescriptive or peremptive.
2. If the period is prescriptive, whether Ourso's waiver could renounce prescription and whether any claims nevertheless prescribed.

HOLDINGS

1. The time limitation in La. R.S. 18:1511.11(B) is prescriptive, not peremptive.
2. Because the period is prescriptive, it may be renounced, interrupted, or suspended; therefore, Ourso's waiver could preserve the Board's ability to pursue the action, subject to the trial court's consideration of the scope and effect of the waiver.

KEY QUOTATIONS

“Peremption differs from prescription in several respects. Although prescription prevents the enforcement of a right by legal action, it does not terminate the natural obligation (La. Civ.Code art. 1762(1)); peremption, however, extinguishes or destroys the right (La. Civ. Code Art. 3458).” (842 So. 2d at 349)

“Thus, considering the explicit language of the statute contained in the Act, the stated purpose behind the statute, the public policy which mitigates in favor of renunciation of that time limit by the candidate, and the absence of any other characteristics that would tend to indicate that the legislature intended the statute to be peremptive, we conclude that La. R.S. 18:1511.11 establishes a prescriptive time limitation.” (842 So. 2d at 352)

FACTUAL BACKGROUND

Ourso, a candidate for district court judge, filed campaign-finance reports for the 1998 primary and general elections. The Board of Ethics believed the reports showed that he had received loans exceeding statutory contribution limits and investigated the alleged violations. Ourso signed a waiver renouncing prescription-related defenses through November 19, 1999, but ultimately rejected a proposed consent opinion, and the Board filed suit on that date.

PROCEDURAL HISTORY

The Board sued Ourso in the Twenty-First Judicial District Court seeking civil penalties for alleged campaign-finance violations. The trial court sustained Ourso's exception of peremption and dismissed the petition, and the First Circuit affirmed. The Louisiana Supreme Court reversed and remanded for consideration of Ourso's remaining prescription arguments.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court was instructed to consider Ourso's argument that, even if the period is prescriptive, some or all of the claims had prescribed despite his waiver, including the scope and effect of the waiver and the timing of the Board's filing.

CASES CITED

- State Bd. of Ethics v. Ourso, 838 So. 2d 792 (La. App. 1 Cir. 2002)
- Reeder v. North, 701 So. 2d 1291 (La. 1997)
- Hebert v. Doctors Memorial Hospital, 486 So. 2d 717 (La. 1986)
- State of Louisiana, Division of Administration v. McInnis Bros. Constr., 701 So. 2d 937 (La. 1997)
- Metropolitan Erection Co., Inc. v. Landis Construction Co., 627 So. 2d 144 (La. 1993)
- Chalstrom v. Desselles, 433 So. 2d 866 (La. App. 4 Cir. 1983)
- Pounds v. Schori, 377 So. 2d 1199 (La. 1979)
- Guillory v. Avoyelles Railway Co., 104 La. 11, 28 So. 899 (1900)