

Bond Case Briefs

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PUBLIC EMPLOYMENT - LOUISIANA

Marvin v. Berry

Supreme Court of Louisiana - April 25, 2023 - So.3d - 2023 WL 3073565 - 2023-00214 (La. 4/25/23)

District attorney petitioned for declaratory judgment as to whether the Dual Officeholding and Dual Employment Law prohibited member of board of commissioners for recreation and water-conservation district from also serving as the district's executive director.

The District Court denied Attorney General's petition to intervene on state's behalf and granted summary judgment to district and board member. Attorney General appealed. The Court of Appeal affirmed the denial of Attorney General's petition to intervene and did not address the merits of summary judgment. Attorney General sought a writ of certiorari. The Supreme Court granted the writ and remanded for consideration of Attorney General's assignments of error about summary judgment. On remand, the Court of Appeal affirmed. Attorney General sought a writ of certiorari.

The Supreme Court held that the Dual Officeholding and Dual Employment Law prohibited district's board member from also serving as district's executive director.

The Dual Officeholding and Dual Employment Law prohibits the same person from holding two public offices or jobs if the incumbent of one, alone or in conjunction with others, has the power to appoint or remove the incumbent of the other.

Dual Officeholding and Dual Employment Law prohibited member of board of commissioners for recreation and water-conservation district from also serving as the district's executive director; board of commissioners had the power to appoint and remove the executive director, and despite argument that the particular commissioner abstained from the board's selection and oversight of the executive director, his authority over the executive-director position could not be divested by a majority vote of the board.