

SUPREME COURT OF LOUISIANA

No. 02-C-0640

**THE BOARD OF TRUSTEES OF THE SHERIFFS’ PENSION
AND RELIEF FUND**

v.

CITY OF NEW ORLEANS, ET AL

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FOURTH CIRCUIT, PARISH OF ORLEANS**

Calogero, Chief Justice concurring.

I agree with the Per Curiam in this matter. I write this concurrence to note an additional reason for recalling the writ of mandamus. The language of La. R.S. 11:2174 attempts to place an obligation on the “State tax collector for the City of New Orleans.” However, the “State tax collector for the City of New Orleans” was never a City official. Rather, he was an elected State official who, except for a short period of time in 1935, never collected municipal taxes nor had he the authority to do so. Further, this State office was abolished in 1975. If La. R.S. 11:2174 attempts to impose an obligation on a state official who is no longer in existence, then surely a question arises whether this statute sets forth a ministerial duty which is *clear*, which is one of the requirements for the issuance of a mandamus. See my concurrence in *Louisiana Assessors’ Retirement Fund, et al v. City of New Orleans, et al*, 01-C-0735 (La. 2/26/02), 809 So.2d 955.