SUPREME COURT OF LOUISIANA

NO. 10-CJ-2725

IN RE: THE MARRIAGE OF ERIN BLANCH
AND JUAN S. BLANCH, JR.

PER CURIAM[*]

Relator, Juan S. Blanch, Jr., filed a rule for contempt in the trial court, alleging his former spouse violated certain visitation provisions in a custody judgment. The trial court continued the rule for contempt indefinitely on the ground the custody judgment was pending on appeal.

Upon relator's application, the court of appeal granted the writ but denied relief. Citing La. Code Civ. P. articles 2088 and 3943, the court determined the "trial court erred by continuing the hearing on the basis that the taking of the appeal had divested the court of jurisdiction to hear the Rule for Contempt." The court of appeal then proceeded to review the rule for contempt on the merits, and concluded "Relator's allegations in the Rule, even if true, would not support a finding of Contempt against the Respondent."

We see no error in the court of appeal's judgment insofar as it finds the trial court is not divested of jurisdiction to consider the rule for contempt pending the appeal. However, we find the court of appeal erred in reaching the merits of the rule for contempt. Because no hearing on the rule for contempt has occurred, the appellate court should not have commented on the merits, if any, of this rule. Instead, the appellate court should have simply reversed the trial court's ruling indefinitely continuing the rule, and remanded the matter to the trial court for

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[*] Chief Justice Kimball not participating in this opinion.

further proceedings. Therefore, we grant relator's writ application for the sole

purpose of clarifying that the merits of the rule for contempt are to be determined

on remand in the trial court. The appellate court's comments on this issue are

purely *obiter dicta*, and are not binding on the trial court. *See Boyd v. Wackenhut*

Corp., 08-1388 (La. 10/24/08), 993 So. 2d 216.