06/26/2026 "See News Release 029 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 2026-CD-00594

GARY CROCKETT

VS.

STATE OF LOUISIANA; JEFF LANDRY, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF LOUISIANA, ET AL.

C/W

CHELSEY RICHARD NAPOLEON, IN HER OFFICIAL CAPACITY AS CLERK OF COURT FOR ORLEANS PARISH

VS.

CITY OF NEW ORLEANS; JEAN PAUL "J.P." MORRELL IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE NEW ORLEANS CITY COUNCIL; HELENA MORENO IN HER CAPACITY AS THE MAYOR OF THE CITY OF NEW ORLEANS & CALVIN JOHNSON, IN HIS CAPACITY AS CITY APPOINTED INTERIM CLERK OF COURT FOR ORLEANS PAIRSH

On Supervisory Writ to the 19th Judicial District Court, Parish of East Baton Rouge

GUIDRY, J., would grant rehearing and assigns reasons.

Wisdom suggests that you are never too far down the wrong road to turn around. By denying rehearing, the majority squandered this court's last opportunity to right the wrong which is this case's grievous tale of a coup and a coronation. A brazen coup removed Mr. Duncan, whom the people of Orleans Parish overwhelmingly elected as their choice for Clerk of Criminal District Court and who had taken his oath of office for that position. And the shameless act of coronation, appointing Ms. Napoleon to the newly created Clerk of Court of Orleans Parish, bestowed upon her a position for which she did not run, for which the voters of New Orleans never vetted her for or elected her to, and for which she has never taken the oath of office.

This whole saga is about how the arrogance of governmental power, left unchecked, can cause incalculable injury to the citizens who instituted the government for their protection. What transpired in this instance is certainly not worthy of a government of the people, for the people, and by the people. The people do not institute governments to trample their rights or to run roughshod over them. The irony is inescapable that all this mischief is occurring in the bright light of our celebrating 250 years of our nation's independence from tyrannical rule that usurped the will of the people. One of the grievances laid bare in the Declaration of Independence was the creation of new offices and appointments to those offices without the people having any say in who would sit in those governing positions. Two hundred fifty years later, political actors maneuvered the creation of the office of Clerk of Court of Orleans Parish, and in an act of paternalism, substituted their will for that of the overwhelming majority of voters of Orleans Parish. They usurped the will of the voters by abolishing a seat that was being held by Mr. Duncan, creating a new office, and appointing their person to fill that position. This occurred despite the fact that the plain language of Act 15 states that the position is to be an elected office. This was all done in violation of enshrined principles of our great democracy, such as a meaningful right to vote, due process of law, and equal protection under the law. The citizens of New Orleans must at this point feel like the founding fathers when they penned the following in the Declaration of Independence: "In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury."

The denial of rehearing inflicts yet another injury on the voters of Orleans Parish and our legal system. This court is charged with being the guardian of the constitutional rights afforded our citizens under both the United States and Louisiana Constitutions. The judiciary is the final line of defense in our system of separation

of powers and checks and balances to protect the constitutional rights of the citizenry and in vindicating the rule of law. When there are unconstitutional encroachments upon the rights of voters and unconscionable governmental overreach, the judiciary cannot capitulate in such a travesty of justice and allow the violation of our state and federal constitutions with impunity. We should never sanction might prevailing over right. Rehearing would facilitate judicial transparency, enhanced scrutiny, accountability, and procedural rigor. Throughout this case, the majority has deviated from our default procedures and embarked on an accelerated and inexplicable rush to, what I would conclude in this case to be, an injustice. By invoking its plenary (because we can) authority, the majority has: failed to allow the trial judge to render a decision, bypassed the intermediate appellate court, ordered expedited briefing, denied meaningful access to an open court by refusing to hear a mere 40 minutes of oral argument on the merits, and now denies oral argument on rehearing. Due process requires a meaningful opportunity to be heard. This whole process creates the appearance of a shadow docket.

To say the majority's original decision was not a model of clarity would be an understatement. Fundamental fairness requires rehearing. In the three applications for rehearing filed with this court, one theme is consistently pronounced: the original opinion issued by this court fails to fully address all the profoundly important issues raised in this case.[1] The original opinion fails to address many of the parties' arguments regarding whether Act 15 created a new office, whether the immediate application of Act 15 produced an act of partial disenfranchisement, and whether procedurally Act 15 was unconstitutionally enacted. While the opinion provides some minimal, yet at times murky reasoning in support of its decision on the merits, it fails to provide specific legal authority to support many of its conclusions and

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[1] As one rehearing applicant noted, the opinion devoted only five sentences to whether Act 15 created a new office, whereas the federal court issued a 45-page opinion addressing the same issue.

blatantly fails to address many of the contrary arguments with supporting legal authority presented by the parties. As the alleged circumstances that warranted this court's rush to judgment without adequate consideration or discussion of the issues raised no longer exist, there appears to be no sound basis for this court not to grant rehearing to allow the parties to be fully heard and to fully address the issues raised in this matter.

Notably, two of the justices in the majority additionally concurred in the original opinion concluding that the question of whether Mr. Duncan is entitled to compensation under La. Const. art. X, §23 (providing that the compensation of an elected public official shall not be reduced during the term for which he is elected) was not considered by the courts and would be subject to future litigation. This statement is incongruent with their conclusion that the citizens were not denied their meaningful right to vote when the person they elected and who had taken his oath of office was effectively removed during his term of office, which would be the only basis for his entitlement to compensation.

Finally, I reiterate the following particular points in support of granting rehearing that I made in my dissent to the original opinion in this matter:

- Act 15 is pretextual in nature, as the records of the legislative proceedings and the sparse record developed in haste leaves no doubt the State cannot meet its burden of showing a compelling state interest in infringing on the fundamental right to vote. Absent such a showing, Act 15 is clearly unconstitutional.
- The State has failed to offer any evidence to support any assertion that Act 15 was done for operational efficiency, reduced costs, or continuity of services when it did not compile any data, conduct any studies, nor consulted with any justice partners or elected representatives of the people impacted by this measure in connection with enacting the legislation.
- The State failed to follow the mandate of La. Const. art. III, § 13, which requires that notice be published of the intention to enact any local and special laws such as Act 15, significantly impacting *only* the citizens of New Orleans. The original opinion's blanket assertion that Act 15 is not a local law lacks authority and therefore does not rectify the unconstitutional enactment of Act 15 in violation of La. Const. art. III, § 13.
- Even if the legislature had the authority to abolish the office of the clerk of criminal court, as the voters of New Orleans had already elected a person of

their choice to that position, the legislation should have been given a prospective application.

- More importantly, the Louisiana Constitution provides a method for filling the office of clerk of court, which is by election. La. Const. art. V, § 23. As such, when the legislature created a new position of the consolidated clerk's office, it was not free to appoint a person to that position as has been done in this case.

Therefore, I respectfully dissent from the majority's refusal to grant rehearing under these extraordinary circumstances and in light of the new arguments raised.