

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NO. 2005 CA 2496**

**CITY OF BATON ROUGE / PARISH OF EAST BATON ROUGE**

**VERSUS**

**MILFORD LEE**

*Judgment Rendered: November 3, 2006*

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**Appealed from the  
19th Judicial District Court  
In and for the Parish of East Baton Rouge, Louisiana  
Case No. 516,542**

**The Honorable Curtis A. Calloway, Judge Presiding**

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**E. Wade Shows  
Lea Anne Batson  
Gwendolyn K. Brown  
Baton Rouge, Louisiana**

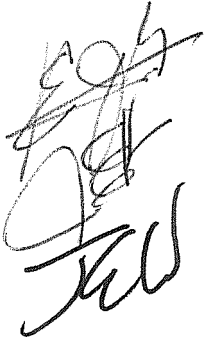
**Counsel for Plaintiff/Appellee  
City of Baton Rouge/Parish of  
East Baton Rouge**

**Kimuel Lee  
Baton Rouge, Louisiana**

**Counsel for Defendant/Appellant  
Milford Lee**

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**BEFORE: KUHN, GAIDRY, AND WELCH, JJ.**



**GAIDRY, J.**

**SUMMARY DISPOSITION**

The defendant-appellant, Milford Lee, suspensively appeals a judgment of the trial court issuing a writ of injunction, enjoining and prohibiting him from violation of the Code of Ordinances of the City of Baton Rouge/Parish of East Baton Rouge (the City-Parish) by storing junk, trash, debris, and dismantled or inoperative vehicles on his residence property. The judgment further ordered that Mr. Lee was given fifteen days to comply with the judgment by removing those items stored in violation of the Code of Ordinances. The judgment was signed May 24, 2005. Mr. Lee filed a motion for new trial on May 31, 2005. The trial court denied the motion for new trial *ex parte* on June 1, 2005. On September 12, 2005, the trial court found him in contempt of its prior judgment. Its judgment in that regard was signed September 20, 2005. Mr. Lee filed a motion to appeal all three judgments on September 13, 2005.<sup>1</sup>

Initially, we address the issue of the timeliness of this appeal, raised by the City-Parish. The record does not show that notice of the interlocutory judgment denying the motion was mailed to Mr. Lee, a circumstance addressed by the trial court at length during the hearing of the contempt rule, and he has consistently denied receiving such notice. Under these circumstances, we maintain the appeal. *See* La. C.C.P. art. 2123(A)(2).

Mr. Lee assigns as error the trial court's issuance of the injunction as contrary to the evidence presented at trial and in the absence of proof of irreparable injury by the City-Parish. He also contends that the trial court erred in failing to find that the City-Parish was estopped from seeking to

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<sup>1</sup> Mr. Lee's appeal of the contempt judgment of September 12, 2005 was docketed separately under Docket No. 2005 CA 2497. We therefore preterm discussion of any assignments of error and issues related to that judgment.

enforce its ordinances by reason of “governmental misconduct” and in failing to find the ordinances unconstitutionally vague and overbroad. He also claims that the City-Parish’s cause of action for injunctive relief is prescribed, as the alleged violations have been in existence for many years, if not “many decades.”

Parenthetically, we acknowledge the general truth of the venerable maxim cited by defendant: “One man’s trash is another man’s treasure.” But with apologies to the author of one New Testament letter, we also observe that if your treasure has corroded, that corrosion will be a testimony against you. The testimony and evidence in the record amply support the findings and judgment of the trial court. As the violation of the ordinances was proven to be persistent and ongoing at the time the City-Parish sought the injunctive relief, its cause of action was neither moot nor prescribed. We further find no violation of due process or unconstitutional vagueness in the specific ordinances at issue.<sup>2</sup> Mr. Lee’s assignments of error have no merit.

#### **DECREE**

We accordingly affirm the judgment of May 24, 2005 through this summary disposition, in accordance with Rules 2-16.2(A)(5), (6), (8) and (10) of the Uniform Rules of the Louisiana Courts of Appeal. All costs of this appeal are assessed to the defendant-appellant, Milford Lee.

**AFFIRMED.**

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<sup>2</sup> Those ordinances are Title 6, Chapter 4, §§ 6:376 and 6:402, and Title 12, Chapter 7, §§ 12:500 and 12:502.