

SUPREME COURT OF LOUISIANA

NO. 06-CC-1981

B.W.S., JR.; T.A.S. AS ADMINISTRATORS OF  
THE ESTATE OF M.T.S.

V.

LIVINGSTON PARISH SCHOOL BOARD, ET AL.

PER CURIAM

In November 2005, M.T.S., then an eighth grade student at a Livingston Parish junior high school, was expelled from school for twelve months. In June 2006, plaintiffs, the parents of M.T.S., filed a petition for injunctive relief against the Livingston Parish School Board (“Board”) and others. Essentially, plaintiffs sought an order requiring that the Board evaluate M.T.S. for placement in the 9<sup>th</sup> grade, taking into account her home schooling, and that it provide her with alternative education beginning August 9, 2006. The trial court conducted a hearing on July 31, 2006, which was attended by plaintiffs’ counsel only.<sup>1</sup> At the conclusion of the hearing, the trial court denied plaintiffs’ request for relief, finding the request was premature “due to the fact the child will not complete her expulsion until November 2006 . . . .”

Plaintiffs sought supervisory review of this ruling. The court of appeal issued an “Interim Order” on August 3, 2006 directing the Board to file a supplemental brief responding to seven specific inquiries. On August 8, 2006, the court of appeal granted plaintiffs’ writ application and issued specific orders granting relief to plaintiffs. The Board now seeks expedited review of the court of appeal’s ruling.

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<sup>1</sup> The Board represents that it did not receive notice of this hearing.

Without passing on the merits of the court of appeal's disposition, we find the court of appeal committed procedural error in this case. It is well-settled that appellate courts are limited to the record developed in the trial court and are prohibited from receiving new evidence. La. Code Civ. P. art. 2164; *Gallagher v. Gallagher*, 248 La. 621, 181 So. 2d 47 (1965). In the present matter, the court of appeal clearly went beyond the record when it ordered the Board to file a supplemental brief addressing issues not developed before the trial court. The court of appeal then relied on the information contained in this supplemental brief, as well as in plaintiffs' brief, in fashioning its remedy in this case. While the court of appeal's action was well intentioned in light of the expedited nature of these proceedings, we find a departure from proper appellate procedure that mandates this court's intervention.

Accordingly, the writ is granted. The judgment of the court of appeal is vacated and set aside. The case is remanded to the trial court for an expedited hearing upon proper notice to all parties. At the hearing, the trial court is directed to receive appropriate evidence from the parties and render a judgment addressing all relevant issues, including, but not limited to, whether the Board has an obligation to provide alternative education to M.T.S. pursuant to La. R.S. 17:416.