

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

JOSEPH DANIEL CORMIER

NO. 2013 CW 2243

VERSUS

MELANIE WILLIAMS

FEB 20 2014

In Re: Melanie Williams, applying for supervisory writs,
Family Court, Parish of East Baton Rouge, No. 152290.

BEFORE: PARRO, KUHN, GUIDRY, PETTIGREW AND DRAKE, JJ.

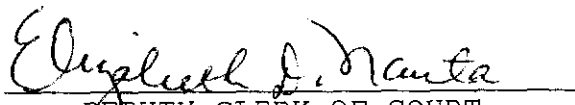
WRIT GRANTED IN PART, DENIED IN PART. The trial court's judgment of November 24, 2013, denying Melanie Williams' peremptory exception of no right of action is hereby reversed as it pertains to the petition of Herbert Neames for specific grandparent visitation rights under La. R.S. 9:344 and La. Civ. Code art. 136. Mr. Neames lacks a right of action under La. R.S. 9:344 because he is not a parent of the deceased. Mr. Neames and Mrs. Neames lack a right of action under La. Civ. Code art. 136 because there has been no custody dispute in which custody was awarded to a nonparent pursuant to La. Civ. Code art. 133. See **Francis v. Francis**, 2011- 2116 (La. App. 1st Cir. 6/13/12), 97 So.3d 1091, 1095-1096, cert. granted, writ denied, 2012-1635 (La. 7/24/12), 93 So.3d 582. Therefore, Ms. Williams' peremptory exception of no right of action is sustained as it pertains to Mr. Neames. Mr. Neames has until March 19, 2014 to file an amended petition with the family court that states a right of action. See La. C.C.P. art. 934. The judgment is affirmed in all other respects.

RHP
JTP
EGD

Kuhn, J., concurs. I would only grant the peremptory exception of no right of action as it pertains to Herbert Neames' petition for specific grandparent visitation rights under La. R.S. 9:344 and La. Civ. Code art. 136. I find no error in the family court's judgment as it pertains to Patricia Neames.

Guidry, J., dissents and would vote to go *en banc* to reverse **Francis v. Francis**, 2011-2116 (La. App. 1st Cir. 6/13/12), 97 So.3d 1091, cert. granted, writ denied, 2012-1635 (La. 7/24/12), 93 So.3d 582.

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DEPUTY CLERK OF COURT
FOR THE COURT