

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

DANIEKA PETIT-BLANC

NO. 2020 CW 0950

VERSUS

QUANISHA R. CHARLES AND
STATE FARM MUTUAL INSURANCE
COMPANY

DECEMBER 21, 2020

In Re: Quanisha R. Charles and State Farm Mutual Automobile Insurance Company, applying for supervisory writs, 32nd Judicial District Court, Parish of Terrebonne, No. 187520.

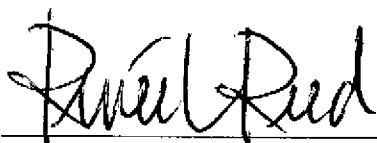
BEFORE: WHIPPLE, C.J., WELCH AND CHUTZ, JJ.

WRIT DENIED.

VGW
WRC

Welch, J., dissents. In light of the amendment to La. R.S. 13:950, I would grant the writ and reverse the district court's September 8, 2020 judgment which denied the exception of prescription filed by defendant, State Farm Mutual Automobile Insurance Company. La. R.S. 13:850 requires that the original petition and applicable fees be delivered to the clerk of court within seven days, exclusive of holidays, after the clerk of court receives the facsimile filing of the petition. The notice of the facsimile filing issued by the clerk of court herein evidences that it received the facsimile filing on November 13, 2019. Accordingly, the applicable seven day delay pursuant to La. R.S. 13:850 for delivery of the original petition and fees was November 22, 2019. Although the petition was stamped filed on November 26, 2019, the evidence showed that the clerk of court received the cover letter sent with the original petition and fees on November 25, 2019, which fell outside of the seven day period, and therefore, the facsimile filing was of no force or effect. The petition alleged the accident at issue herein occurred on November 18, 2018. Delictual actions are subject to a liberative prescription of one year. La. Civ. Code art. 3492. Accordingly, even if the petition could be deemed filed on the date the letter and enclosed petition were received by the clerk of court on November 25, 2019, it was filed after the one year time period for filing suit.

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DEPUTY CLERK OF COURT
FOR THE COURT