

The Supreme Court of the State of Louisiana

WILLIAM P. DERING

No. 2021-C-00691

VS.

KAY W. DERING

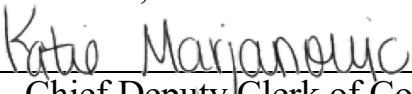
IN RE: William P. Dering - Applicant Plaintiff; Applying For Writ Of Certiorari, Parish of Calcasieu, 14th Judicial District Court Number(s) 2020-114, Court of Appeal, Third Circuit, Number(s) 20-512;

October 01, 2021

Writ application granted. See per curiam.

JDH
JLW
SJC
JTG
WJC
JBM
PDG

Supreme Court of Louisiana
October 01, 2021



Chief Deputy Clerk of Court
For the Court

10/01/21

SUPREME COURT OF LOUISIANA

No. 2021-C-00691

WILLIAM P. DERING

VS.

KAY W. DERING

On Writ of Certiorari to the Court of Appeal, Third Circuit, Parish of Calcasieu

PER CURIAM:

Writ granted. This matter presents on an exception of no right of action. The function of an exception of no right of action is to determine whether plaintiff belongs to the class of persons to whom the law grants the cause of action asserted in the petition. La. C.C.P. art. 927; *Turner v. Busby*, 03–3444, p. 4 (La.9/9/04), 883 So.2d 412, 415. The exception of no right of action serves to question whether the plaintiff in the particular case is a member of the class of persons that has a legal interest in the subject matter of the litigation. *Id.*

We find Mr. Dering has established a right of action. He is a party to the partition agreement and has a right to assert his interpretation of the agreement. Moreover, the petition alleges he is an owner in indivision of the former family home. Given this allegation, Mr. Dering has a real and actual interest in the action to partition the property. We express no opinion on the merits of this claim. (“The exception does not raise the question of the plaintiff’s ability to prevail on the merits nor the question of whether the defendant may have a valid defense.” *Duplessis Cadillac, Inc. v. Creative Credit Services, Inc.*, 597 So.2d 1155, 1158 (La. App. 1st Cir.1992)). Accordingly, we reverse and remand for further proceedings.