

The Supreme Court of the State of Louisiana

**WILLIE COVINGTON AND
APRIL COVINGTON**

No. 2024-C-01531

VS.

CLARK SAND CO., INC., ET AL.

IN RE: Willie Covington - Applicant Plaintiff; Willie Covington, et al. - Applicant Plaintiff; April Covington - Applicant Plaintiff; Applying For Writ Of Certiorari, Parish of East Baton Rouge, 19th Judicial District Court Number(s) 651253, Court of Appeal, First Circuit, Number(s) 2024 CA 0485;

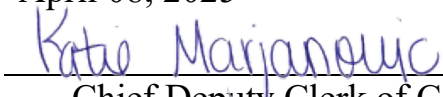
April 08, 2025

Writ application granted. See per curiam.

JDH
JLW
JBM
PDG
JMG
CRC

Weimer, C.J., additionally concurs and assigns reasons.
Crain, J., dissents and assigns reasons.

Supreme Court of Louisiana
April 08, 2025



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-C-01531

WILLIE COVINGTON AND APRIL COVINGTON

VS.

CLARK SAND CO., INC.; CLEMCO INDUSTRIES CORPORATION F/K/A CLEMCO SERVICES CORP.; DEPENDABLE ABRASIVES, INC.; E.D. BULLAR COMPANY; EMPIRE ABRASIVE EQUIPMENT COMPANY, L.P.; INGERSOLL-RAND CORPORATION; LEROI INTERNATIONAL, INC., A SUSIDIARY OF GARDNER DENVER, INC.; LONE STAR INDUSTRIES, INC.; 3M COMPANY; RUEMELIN MANUFACTURING CO., INC.; SANSTORM, INC.; BOB SCHMIDT MANUFACTURING, INC.; SOUTHERN SILICA OF LOUISIANA, INC.; SULLAIR COMPESSOR CORPORATION; AND SPECIALTY SAND COMPANY

On Writ of Certiorari to the Court of Appeal, First Circuit,
Parish of East Baton Rouge

PER CURIAM

It is well settled that appeals are favored in the law. *Chauvin v. Shell Oil Co.*, 17-43 (La. 3/31/17), 214 So.3d 855; *Shell Pipeline Corp. v. Kennedy*, 00-3207 (La. 10/16/01), 799 So.2d 475, 478; *General Motors Acceptance Corp. v. Deep South Pest Control Inc.*, 173 So.2d 190, 191 (La. 1965).

Unless the ground urged for dismissal is free from doubt, the appeal should be maintained. *Schiff v. Pugh*, 22-210 (La. 4/12/22), 335 So.3d 830; *Jackson v. Family Dollar Stores of Louisiana Inc.*, 18-170 (La. 6/27/18), 251 So.3d 368, 372; *U.S. Fire Insurance Co. v. Swann*, 424 So.2d 240, 244-45 (La. 1982).

Louisiana Code of Civil Procedure article 2126(F) provides: If the appellant pays the costs required by this Article, the appeal may not be dismissed because of the passage of the return day without an extension being obtained or because of an untimely lodging of the record on appeal.

In this case the costs were paid by the plaintiff prior to the hearing on a motion to dismiss. Thus, dismissal of the appeal is improper. *See In re Singleton*, 22-285

(La. App. 5th Cir. 3/1/23), 360 So.3d 70, 75. We find the grounds cited by the court of appeal for dismissal of the appeal are not free from doubt. The court of appeal therefore erred in dismissing the appeal.

Accordingly, the writ is granted. The judgment of the court of appeal dismissing the appeal is vacated, and the appeal is reinstated. The case is remanded to the court of appeal for consideration of the appeal on the merits.