

The Supreme Court of the State of Louisiana

KEITH BOSSIER

No. 2025-CC-00909

VS.

HAZA FOODS OF LOUISIANA, LLC,
DIAMOND LAND COMPANY, LLC, THE
WENDY'S COMPANY, ABC INSURANCE
COMPANY, DEF INSURANCE COMPANY,
AND XYZ INSURANCE COMPANY

IN RE: Haza Foods of Louisiana, LLC, et al. - Applicant Defendant; Applying For
Supervisory Writ, Parish of East Baton Rouge, 19th Judicial District Court
Number(s) C-697800, Court of Appeal, First Circuit, Number(s) 2025 CW 0299;

November 05, 2025

Writ application granted. See per curiam.

JMG
JLW
WJC
JBM
CRC

Hughes, J., dissents.
Griffin, J., dissents.

Supreme Court of Louisiana
November 05, 2025



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2025-CC-00909

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VS.

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On Supervisory Writ to the 19th Judicial District Court, Parish of East Baton Rouge

PER CURIAM

Relators, Haza Food Louisiana, LLC and The Wendy's Company, seek review of a judgment of the district court denying their exception of prescription. For the reasons that follow, we reverse the judgment of the district court.

FACTS AND PROCEDURAL HISTORY

On July 10, 2020, plaintiff filed suit against relators. Plaintiff alleged he was injured on July 11, 2017 when he fell from the roof of relators' restaurant and sustained permanent traumatic brain injuries.

Relators filed a peremptory exception raising the objection of prescription. They pointed out plaintiff's suit was prescribed on its face and produced evidence showing that plaintiff was aware no later than September 2017 that he had been injured in a fall.

Plaintiff opposed the exception. Citing *Corsey v. State, Through Dep't of Corrections*, 375 So. 2d 1319 (La. 1979), he argued the doctrine of *contra non valentem* applied because defendants' tortious conduct caused him to be mentally incapacitated such that he could not understand the facts surrounding his injury.

The district court denied relator's exception of prescription, and the court of appeal denied supervisory relief. Relators' application to this court followed.

DISCUSSION

Because plaintiff's July 10, 2020 suit was filed more than one year from the date of his July 11, 2017 accident, the burden is on plaintiff to establish his suit is timely. *See Campo v. Correa*, 2001-2707 (La. 6/21/02), 828 So. 2d 502, 508 ("if prescription is evident on the face of the pleadings, the burden shifts to the plaintiff to show that the action has not prescribed."). In an effort to meet his burden, plaintiff relies on the third category of *contra non valentem* (i.e. where the debtor himself has done some act effectually to prevent the creditor from availing himself of his cause of action), as applied by this court in *Corsey*.

In *Corsey*, the plaintiff was an inmate who suffered personal injuries while in state custody on June 18, 1972. He did not file suit until June 25, 1974, arguing that because of his injuries he was so mentally incapacitated that he lacked any understanding of what had happened to him and of his possible legal remedies until July 1973, when he began to recover an awareness of the events and of his condition. We found that "due to the defendant's wrongful conduct, until July 1973 the plaintiff was unable because of the tort-caused mental incompetency to know he had a cause of action or to have the mental ability to pursue it." *Corsey*, 375 So. 2d at 1323. In doing so, we reasoned that "[t]o permit prescription to run under the present facts would permit a defendant with custody and control over a person he had tortiously injured to profit by his subsequent laxity in medical treatment, when (as here stipulated) the injured person's recovery of mental faculties was retarded beyond the prescriptive period." *Id.* at 1324.

The facts of the instant case are clearly distinguishable from the extraordinary circumstances presented in *Corsey*. Even assuming relators' negligence caused plaintiff's mental incapacity (an allegation which relators deny), relators did not have custody or control over plaintiff following the accident and did nothing to conceal their negligence or prevent him from filing suit. *See Harsh v. Calogero*, 615

So. 2d 420, 423 (La. App. 4th Cir. 1993) (“[e]ven if we accept that the defendant’s negligence caused [plaintiff’s] mental impairment, his negligence did not stop her from asserting her rights or conceal from her the facts which gave rise to her injury.”).

Unlike *Corsey*, where the parties stipulated the plaintiff did not understand what happened to him until the prescriptive period expired, the evidence in the case before us shows that plaintiff admitted that during his hospitalization between August 31, 2017 through September 28, 2017, a nurse told him he had been injured in a fall. Similarly, plaintiff’s medical records from September 2017 confirm his injuries resulted from a fall which occurred on July 11, 2017.

Clearly, this evidence shows plaintiff, who has never been interdicted, had sufficient information about his potential cause of action no later than September 2017. His failure to protect his rights cannot be attributed to any action by relators.

Because plaintiff failed to satisfy his burden of showing his suit is not prescribed, the district court erred in denying relators’ exception. That judgment must be reversed.

DECREE

For the reasons assigned, the writ is granted and made peremptory. The March 27, 2025 judgment of the district court denying the exception of prescription filed by Haza Food Louisiana, LLC and The Wendy’s Company is reversed. The exception of prescription is granted, and plaintiff’s suit against Haza Food Louisiana, LLC and The Wendy’s Company is dismissed with prejudice.