

Fifth Circuit Court of Appeal
State of Louisiana

NO. 25-CA-139

CLARENCE CHRISTOPHER CAGE

VERSUS

CONNIE M CAGE

ON APPEAL FROM THE FORTIETH JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA
NO. 81,168, DIVISION "A"
HONORABLE VERCELL FIFFIE, JUDGE PRESIDING

November 12, 2025

FREDERICKA HOMBERG WICKER
JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Scott U. Schlegel, and Timothy S. Marcel

AFFIRMED

FHW
SUS
TSM

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEAR IN OUR RECORDS


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Deputy, Clerk of Court

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WICKER, J.

Defendant-appellant, Connie M. Cage, appeals the 40th Judicial District Court's May 15, 2024 Judgment in favor of her former spouse, plaintiff-appellee, Clarence Christopher Cage, granting him a divorce, pursuant to La. C.C. art. 103(4) prior to ruling on her incidental demands, including interim spousal support. For the following reasons, we affirm the district court's judgment of divorce and remand the matter to the district court in order to address outstanding matters.

PRELIMINARY OBSERVATIONS

Initially, we observe that Ms. Cage's original brief does not set out assignments or specifications of error or a statement of the issues presented for review. Her failure to specifically assign errors and identify the issues presented for review leaves this Court in a position of having to glean the errors of which she complains and the issues that she seeks to have us review from the arguments made in the text of her application. Rule 2-12.4 (A)(5) and (6) of the Uniform Rules of the Louisiana Courts of Appeal provide, in pertinent part, that appellate briefs "***shall contain . . . (5) the assignments of alleged errors; [and] (6) a listing of issues presented for review[.]***" (Emphasis added). Rule 2-12.13 states that briefs not in compliance with the Uniform Rules "may be stricken in whole or in part by the court, and the delinquent party or counsel of record may be ordered to file a new or amended brief." Rule 1-3 states that the court "shall review issues that were submitted to the trial court ***and that are contained in specifications or assignments of error***, unless the interest of justice requires otherwise." (Emphasis added). La. C.C.P. art. 2129 provides, however, that "[a]n assignment of error is not necessary in any appeal." Further, La. C.C.P. art. 2164 provides an appellate court "shall render any judgment which is just, legal, and proper upon the record on appeal."

In *Wooley v. Lucksinger*, 09-571 (La. 4/1/11), 61 So.3d 507, 563, the Louisiana Supreme Court stated:

This court has held, on the basis of [Article 5, Section 10 of the Louisiana Constitution of 1974] and codal authority, that an ‘appellate court clearly had the authority to consider [an issue] even though there was no assignment of error in that regard.’ *Nicholas v. Allstate Ins. Co.*, 1999–2522 p.7–8 (La.8/31/00), 765 So.2d 1017, 1023; *see also Georgia Gulf Corp. v. Board of Ethics for Public Employees*, 96–1907 p. 5–6 (La.5/9/97), 694 So.2d 173, 176.

In her Statement of the Case, Ms. Cage states that she filed a Motion for Devolutive Appeal to:

. . . appeal the Judgment granting the immediate divorce pursuant to LCC Article 103(4) to Clarence Cage, as the Judgment was granted when both parties had a Civil Stay Away Order from the Protective Orders they had filed, and the defendant, Connie M. Cage, had been arrested for domestic abuse from that incident, however, the charges were pending at the time of the divorce hearing date and had not been concluded[.]

In her Summary of Argument, Ms. Cage states that she is challenging “the Judgment . . . for Clarence Cage, wherein the Appellee was awarded a Judgment of Divorce pursuant to Louisiana Civil Code Article 103(4) [physical abuse], and the issue of support should have been heard prior to the hearing on the divorce hearing.”¹ She then goes on to state that she “believes the Judgment should be overturned and remanded back to the State Court for defendant to have a new hearing, and the hearing on the issue of spousal support to be heard.”

Ms. Cage begins the Argument section of her application by stating that she was “wronged in not being allowed to present to the Court her need for spousal

¹ Louisiana Civil Code articles 102 and 103 provide the grounds for divorce in Louisiana. Article 102 is the “no fault” divorce provision that allows parties to obtain a divorce upon proof that they have been living separate and apart for an amount of time – *i.e.*, one hundred eighty days if there are no minor children of the marriage, and three hundred sixty-five days if there are minor children. (See La. C.C. art. 103.1). Article 103 sets out the grounds for an immediate divorce. Article 103(4) provides for an immediate divorce in cases where a spouse can demonstrate that the other spouse has physically or sexually abused the spouse seeking the divorce during the marriage. Article 103(5) provides for an immediate divorce in cases where a protective order or injunction has been rendered against a spouse in favor of the spouse who is seeking the divorce, whether entered by consent or after a contradictory hearing.

support from plaintiff, Clarence Cage, prior to the time the Court granted him an immediate divorce under Louisiana Civil Code Article 103(4).” She ends her Argument by stating that: “[t]he Court abused its discretion in granting plaintiff a divorce under 103(4) and not granting defendant a divorce under Louisiana Civil Code Article 102 and not granting defendant spousal support.” Her request for relief asks that this Court to “overturn the Court’s Judgment of May 15, [2024], and have the matter remanded back [to] State Court for rehearing after the hearing on spousal support has been heard.”

Although Ms. Cage’s brief in this case lacks a “concise specification of errors and issues presented,” it otherwise substantially complies with Rule 2-12.4(A) and “identif[ies] in general argument the errors and issues.” *See Guidry v. Ford, Bacon & Davis Const. Co.*, 371 So.2d 1301, 1302 (La. App. Ct. App. 1979); *see also Reed v. Reed*, 626 So.2d 12, 13 (La. App. 1st Cir. 1993) (where brief otherwise substantially complied with Uniform Rules and presented arguments on the errors and issues raised, failure to include an “Argument” section did not mandate dismissal of the appeal; the court would consider arguments presented therein). Accordingly, we will review herein Ms. Cage’s contentions that the district court erred in: (1) holding a hearing on and granting Mr. Cage’s rule for an immediate divorce under La. C.C. art. 103 prior to conducting a hearing on appellant’s rule for spousal support; and (2) granting Mr. Cage a divorce under La. C.C. art. 103(4) instead of granting appellant a divorce under La. C.C. art. 102.

FACTS AND PROCEDURAL HISTORY

Mr. and Ms. Cage were married on June 5, 2011. No children were born of the marriage.²

The Protective Order Proceedings

On December 1, 2023, Ms. Cage filed a Petition for Protection from Abuse against Mr. Cage in St. John Parish, asserting that on November 26, 2023, Mr. Cage committed or attempted to commit acts of domestic violence against her.³ She claimed that she was in fear for her life and requested a protective order. She also requested incidental relief, including temporary custody of Mr. Cage's minor child, the use of certain movable property, spousal support, and the use and occupancy of the family residence. A temporary order of protection was entered against Mr. Cage on the same date and a review hearing was set for December 15, 2023. The temporary order of protection did not address Ms. Cage's requests for incidental relief.

On December 7, 2023, Mr. Cage filed a Petition for Protection from Abuse, In Reconvention, against Ms. Cage asserting that she physically abused him on November 25, 2023 by pepper-spraying him and pulling a gun on him. He alleged that she had been arrested as a result of the pepper-spray incident. Mr. Cage requested incidental relief, including custody of his son, use of certain movables and use and occupancy of the marital residence. A temporary order of protection was entered on the same date. In the temporary order of protection, Mr. Cage was

² Mr. Cage has a minor child from a previous relationship. According to Mr. Cage, this child began living with Mr. and Ms. Cage approximately two years prior to the commencement of the divorce proceedings. At the time of the divorce trial, the child was 16 years old.

³ Ms. Cage's Petition for Protection from Abuse states that the incident warranting the order of protection occurred on November 26, 2023. Mr. Cage's Petition for Protection from Abuse, In Reconvention, states that the incident warranting the order of protection occurred on November 25, 2023. The Amended and Supplemental Petition states that the parties separated on November 11, 2023; however, it is clear that the incident described in the Petitions for Protection from Abuse was the triggering event for the separation. Both parties testified at the divorce trial that the events underlying the Petitions for Protection and Mr. Cage's demand for an immediate divorce under Article 103 (5) or (4) occurred on November 15, 2023.

granted custody of his son and was awarded use and occupancy of the family home, with the minor child. A review hearing was set for December 15, 2023.

At the review hearing, Mr. and Ms. Cage entered into a Civil Mutual Stay Away Order (the “Stay-Away Order”) and dismissed their Petitions for Protection from Abuse. The Stay-Away Order granted custody of Mr. Cage’s minor child to Mr. Cage. It also awarded him and the minor child the use and occupancy of the family residence. The Stay-Away Order further granted Mr. and Ms. Cage the use of their respective vehicles.

The Divorce Pleadings

On December 13, 2023, two days prior to the scheduled review hearing, Mr. Cage filed a Petition for Divorce (the “Petition”) against Ms. Cage. His Petition did not specify whether he was proceeding under La. C.C. art. 102 or La. C.C. art. 103. A hearing on Mr. Cage’s Petition was scheduled for June 17, 2024.

On January 12, 2024, Mr. Cage filed an amended and supplemental petition (the “Amended Petition”) seeking a divorce pursuant to La. C.C. art. 103(5) or, alternatively, Articles 103(4) or 102. Therein, he alleged that the parties had physically separated on November 11, 2023 and had lived separate and apart since that time. Mr. Cage requested incidental relief including termination of the community retroactive to the date of filing of the divorce proceeding; exclusive use and occupancy of the former marital residence; that Ms. Cage be awarded use of her automobile and be ordered to pay the associated expenses; and that he be named as the owner of a life insurance policy. A hearing on Mr. Cage’s Amended Petition was set for April 30, 2024.

On January 30, 2024, prior to being served with Mr. Cage’s Amended Petition, Ms. Cage answered Mr. Cage’s original petition and filed a reconventional demand (the “Reconventional Demand”), requesting a divorce

under Article 102. Therein, Ms. Cage alleged that the parties had physically separated on or about December 7, 2023. Ms. Cage also alleged that she was free of fault in the breakup of the marriage and requested a judgment to that effect. She further requested incidental relief including but not limited to interim and permanent spousal support; use and occupancy of the family residence or, alternatively, rental reimbursement for Mr. Cage's use and occupancy; that Mr. Cage be ordered to continue to pay all community debts during the pendency of the divorce; and that Mr. Cage be ordered to produce certain financial information. The district court entered an order scheduling a hearing on Ms. Cage's requests for incidental relief for April 30, 2024. The order setting that hearing also ordered both parties to produce in court evidence of income, including W-2s, tax returns, pay stubs, bank account records and title to property. At the same time that she filed the Reconventional Demand, Ms. Cage also sought to be permitted to proceed *in forma pauperis*. That request was also set for hearing on April 30, 2024.

On April 29, 2024, Ms. Cage filed an Answer and Affirmative Defenses to Mr. Cage's amended and supplemental petition seeking a divorce under Article 103(5) or, alternatively, 103(4), and asserted three affirmative defenses, including that the Stay-Away Order was by mutual consent; self-defense; and fault of Mr. Cage.

The April 30, 2024 Hearing

1. Preliminary Matters

On April 30, 2024, the parties appeared before the district court for the scheduled hearing. As a preliminary matter, counsel for Ms. Cage stated that the parties had brought certain financial documentation into court and requested an opportunity to conference with Mr. Cage's counsel to see whether any agreements as to these matters could be reached. After conferencing with Mr. Cage's counsel, Ms. Cage's counsel reported to the court that the parties had reached an agreement

as to some of the outstanding matters; however, no consent on any matter was read into the record.

Ms. Cage's counsel further represented that Mr. Cage had produced insufficient documentation to enable a calculation of spousal support. She asked that the matter be set for a contempt hearing for failure to produce the court-ordered documentation and requested that all matters be continued. Mr. Cage's counsel argued that the parties had exchanged income and expense statements and were there to testify as to their income and expenses; accordingly, she argued that all matters set for hearing should go forward. Ms. Cage's counsel objected to proceeding with any matters in which income and expenses would be at issue due to the failure of Mr. Cage to produce all court-ordered financial information.

Arguments then ensued as to whether the district court could take up only the divorce proceedings without first hearing the issues of exclusive use and occupancy of the former marital home and spousal support. Ms. Cage's counsel urged the court, in the interest of judicial economy, to hear all matters on June 17, 2024, the next scheduled hearing date. On the other hand, Mr. Cage's counsel contended that there is no requirement that incidental matters be heard prior to the divorce proceedings and that the Article 103 divorce trial should go forward. Following counsel's arguments, the district court announced, over the objection of Ms. Cage's counsel, that it would proceed with the Article 103 divorce trial.

Trial on Mr. Cage's Rule

Mr. and Ms. Cage testified at the trial on Mr. Cage's rule for an immediate divorce.⁴ Mr. Cage's testimony relative to the incident that he claims prompted

⁴ Ms. Cage's adult daughter, Terrie Court also testified, but her testimony did not contribute anything bearing on the issues presented, other than she testified that she had never observed her mother being abusive to Mr. Cage.

him to seek an immediate divorce under Article 103(5) or alternatively, 103(4) is summarized as follows:⁵

On November 25, 2023, Mr. Cage went to Yaba's Café after work to meet friends and watch a sporting event on television. While he was there, Ms. Cage called him and asked him to procure some marijuana for her. He refused, causing Ms. Cage to become angry and to verbally abuse him. He left the café and went to their home to talk to Ms. Cage but she continued her verbal assault. He then went back to Yaba's. Ms. Cage called him repeatedly but he did not answer. She then texted him that there was an emergency and to answer the phone. At that point, he called her back, but she only berated him for not complying with her demands. He hung up on Ms. Cage and several minutes later, she appeared in the parking lot at Yaba's. He was sitting outside in his truck when she arrived. Ms. Cage approached the passenger side of the truck and started arguing with him. He locked the truck doors, whereupon, Ms. Cage went to her own vehicle and retrieved her keys, which included a key to his truck, and pepper spray. She then opened the passenger door to his truck and pepper-sprayed him, stating that she hoped he would die. Mr. Cage suffers from asthma. Ms. Cage was aware of this and that the pepper-spray would be dangerous to him.

Once he had "gathered himself together" after being pepper-sprayed, he went home to take a shower and change clothes. Ms. Cage was not at home when he arrived. When Ms. Cage returned to the house, he was sitting on the couch. They again began to argue and Ms. Cage once again sprayed him with pepper spray, after which, Ms. Cage called the police and reported that Mr. Cage had done something to her. Two male officers and one female officer arrived at the house shortly after Ms. Cage's call. They separated the two, taking Mr. Cage outside of the house to be interviewed, while Ms. Cage was being interviewed inside. Paramedics also arrived at the scene.

Mr. Cage related to the officers and the paramedics that Ms. Cage had pepper-sprayed him and that he was asthmatic. Ms. Cage was then arrested and ultimately charged with domestic abuse battery with a dangerous weapon. That charge was pending at the time of the divorce trial.

Mr. Cage also testified as to other incidents of verbal and physical violence allegedly perpetrated against him by Ms. Cage during their marriage, including but not limited to spitting on him, throwing things at him, hitting him, pulling knives on him, pulling a gun on him, threatening to poison him and/or kill him in his sleep. He claimed that Ms. Cage uses marijuana and Ambien, which make her

⁵ Mr. Cage testified that the incidents at issue occurred on November 25, 2023. In her application for an order of protection, Ms. Cage asserted that the incidents occurred on November 26, 2023. The arrest record attached to Mr. Cage's Petition references events and the arrest of Ms. Cage that occurred on November 25, 2023. Thus, for purposes of this opinion, we will use November 25, 2023 as the date of the alleged incidents.

volatile. Mr. Cage stated that he had asked Ms. Cage to get help, but she refused. According to Mr. Cage, he simply tolerated Ms. Cage's alleged abuse and "did everything [he] could to make her happy."

Mr. Cage testified that following the November 25, 2023 incident in which Ms. Cage allegedly pepper-sprayed him, both he and Ms. Cage sought orders of protection against one another and ultimately entered into the Stay-Away Order. The Stay-Away Order remained in place as of the time of the divorce trial.

Mr. Cage could not recall specific dates or timeframes when Ms. Cage allegedly physically or verbally abused him during their thirteen-year marriage and stated that there were no witnesses to any of the alleged abuse. Mr. Cage claimed that he stayed with Ms. Cage because there was "a minor child involved" and that he (Mr. Cage) would "lose out if he left" so he decided to "suffer in silence." Even though he was being abused, Mr. Cage stated that he did not leave because his "heart was in [the marriage even though] her heart wasn't." He claimed that he had never been upset with Ms. Cage or argued with her during the thirteen years they were married and that when Ms. Cage would become angry and threatening, he would simply leave until she calmed down.

Mr. Cage testified that during the thirteen years he was married to Ms. Cage, he continued to hope that things would get better. He stated that neither he nor Ms. Cage had ever previously filed for divorce; nor had either ever called the police on the other prior to November 25, 2023. According to Mr. Cage, however, the pepper-spray incidents that occurred on November 25, 2023 were "the straw[s] that broke the camel's back" and when Ms. Cage called the police that day, he took it as a sign to end the relationship.

Mr. Cage specifically denied lunging at Ms. Cage inside their home on November 25, 2023, or grabbing her. He testified that he did not “put his hands on [her]” and that Ms. Cage did not have “a scratch on her.”

Following the district court’s denial of her motion for a directed verdict, Ms. Cage testified relative to the events of November 25, 2023. We summarize Ms. Cage’s testimony as follows:

Mr. Cage had been drinking all day on November 25, 2023. She and Mr. Cage were engaged in an argument inside their home over her request that he go to Walgreen’s for coffee. A friend of theirs stopped by and the argument stopped. After a short time, but while the friend was still at the house, Mr. Cage left and went to Yaba’s. She tried calling him several times after he left, but he did not answer. Ultimately, she texted him that it was an emergency. Still, he refused to go to Walgreen’s, saying it was too late, even though, in her opinion, it was not late. He also sent her a demeaning text. Even though she had taken an Ambien, Ms. Cage decided to go to Walgreen’s herself.

While driving along River Road, she saw Mr. Cage sleeping in his truck in the Yaba’s parking lot. She drove around the block and pulled into the parking lot next to his truck. By the time she approached his vehicle, he was awake. Ms. Cage tapped on the window to get Mr. Cage to exit the truck or roll down the window. She stated that there was no handle on the truck door on the side that she approached and denied that she could have unlocked the door. Mr. Cage exited the truck, “cursed [her] out and just kept going back and forth.” She then got in her car and went to Walgreen’s for the coffee.

When she arrived back home, Mr. Cage was sitting on the sofa and they continued to argue – that time, about money. She stated that Mr. Cage was “beating on the table like a gorilla on the football field.” She became scared and did not want to argue any more. She was standing behind the sofa when she knocked a vase onto the floor and bent down to pick it up. Mr. Cage then jumped up a couple of times, got between the sofa and where she was standing, and grabbed her arm. She had her keys in her hand, and a can of mace was on her key ring. She was afraid of Mr. Cage and that was how he got sprayed. She then called the police.

Ms. Cage described the dynamic of the couple’s relationship. She testified that the fact that she and Mr. Cage had argued that afternoon was irrelevant. She stated that she and Mr. Cage “argue all the time,” but that they “talk to each other, . . . laugh a lot, [and cry] a lot.” She stated, “that’s just the way we get along.”

Ms. Cage repeatedly denied that she had ever spat on Mr. Cage, thrown things at him or threatened him with knives, scissors or a gun. She further denied that she had ever threatened to poison him or kill him in his sleep. She stated that the only “harmful contact” she had ever engaged in toward Mr. Cage during the thirteen years of their marriage was in self-defense. According to Ms. Cage, when Mr. Cage drinks, he becomes another person and refers to himself as “Cap,” instead of Clarence. She stated that she does not like “Cap.”

Ms. Cage contradicted Mr. Cage’s testimony that he had never become angry, upset or argumentative with her during the entirety of their marriage, stating that he had been physically abusive toward her throughout the marriage. She claimed that over the years, Mr. Cage had beaten her and bruised her, had given her a black eye, had choked her on several occasions, and had once thrown hot water on her. As a result of the hot water incident, Ms. Cage had a skin graft and later got a tattoo to cover the scar.

Ms. Cage denied that Mr. Cage had asked her to “get help.” She stated that she had been in counseling since 2011 due to childhood abuse. Ms. Cage further testified that she suffers from chronic pain from fibromyalgia and had been seeing a pain-management psychiatrist for some time. She also stated that she has “fibromyalgia fog,” which makes it difficult for her to remember things.

Ms. Cage denied that she had ever abused Mr. Cage during any of their arguments. She stated that when they got into arguments, she would leave the scene and remove herself from the conflict.

Throughout her testimony, Ms. Cage pled “the Fifth.” She often became confrontational and combative with Mr. Cage’s counsel and refused to answer questions. The district court advised Ms. Cage that her failure to answer questions on the grounds that her answers might incriminate her could result in the drawing

of adverse inferences against her, but she still continued to assert her Fifth Amendment rights. (See *Miles v. Louisiana Landscape Specialty, Inc.* 97-118 (La. App. 5 Cir. 6/30/97), 697 So.2d 348, 351).

The Ruling

Based on the evidence, the district court granted Mr. Cage a divorce pursuant to La. C.C. art. 103(4).⁶ The court found that it was uncontroverted that Ms. Cage sprayed Mr. Cage with pepper spray on or about November 25, 2023 and that she did so, knowing that Mr. Cage suffered from asthma. A judgment was entered granting Mr. Cage a divorce under La. C.C. art. 103(4) on May 13, 2024. On June 27, 2024, Ms. Cage filed a Motion for Devolutive Appeal, which was granted. This appeal timely follows.

DISCUSSION

Grounds for Divorce under the Louisiana Civil Code

In this divorce action, Mr. Cage obtained a divorce under Civil Code article 103(4). Article 103 provides the circumstances pursuant to which a spouse may obtain an immediate divorce. It states:

Except in the case of a covenant marriage, a divorce shall be granted on the petition of a spouse upon proof that:

- (1) The spouses have been living separate and apart continuously for the requisite period for time, in accordance with Article 103.1 or more on the date the petition is filed.
- (2) The other spouse has committed adultery.
- (3) The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.
- (4) During the marriage, the other spouse physically or sexually abused the spouse seeking the divorce or a child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of abuse.

⁶ The court denied Mr. Cage's request for a divorce under Article 103(5), on the ground that although Ms. Cage may have been charged, there was no evidence of such in the record other than the testimony. The court observed that there was no evidence that she had been convicted and that she was "innocent until proven guilty." Article 103(5), however, does not contain any requirement of a conviction. Instead, it turns on whether an order of protection or injunction – whether after contradictory hearing or on consent – has been issued during the marriage against a spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse. Neither party raised any issue as to this ruling on appeal.

- (5) After a contradictory hearing or consent decree, a protective order or an injunction was issued during the marriage against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse.

Ms. Cage contends that the divorce should have been granted to her under Civil Code article 102, which provides, in pertinent part:

Except in the case of a covenant marriage, a divorce shall be granted upon motion of a spouse when either spouse has filed a petition for divorce and upon proof that the requisite period of time, in accordance with Article 103.1, has elapsed from the service of the petition, or from the execution of written waiver of the service, and that the spouses have lived separate and apart continuously for at least the requisite period of time, in accordance with Article 103.1, prior to the filing of the rule to show cause.

The requisite time periods under Article 103.1 are one hundred eighty days where there are no minor children of the marriage and three hundred sixty five days when there are minor children of the marriage at the time the rule to show cause is filed in accordance with Article 102 or a petition is filed in accordance with Article 103.

Standard of Review

On appeal, we review the district court's findings of fact under the manifest error standard. *Norton v. Norton*, 21-212 (La. App. 5 Cir. 12/22/21), 335 So.3d 371, 381, citing *Martin v. Trushyna*, 19-79 (La. App. 5 Cir. 11/13/19), 283 So.3d 1083, 1086. The trial judge is vested with great discretion in weighing the evidence and assessing the credibility of the witnesses. *Id.* The district court's reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed upon review, even though the appellate court may feel its own evaluations and inferences are more reasonable. *Id.*, citing *Rosell v. ESCO*, 549 So.2d 840, 844-45 (La. 1989); *Dean v. Ramos Corp.*, 00-1621 (La. App. 5 Cir. 2/28/01), 781 So.2d 796, 803. Where the factfinder's determination is reasonable in light of the record viewed in its entirety, the court of appeal may not reverse.

Norton, 335 So.3d at 381, *citing Rabalais v. Nash*, 06-999 (La. 3/9/07), 952 So.2d 653, 657.

We also review mixed questions of fact and law under the manifest error standard. *Id.*, *citing Martin*, 283 So.3d at 1086; *A.S. v. D.S.*, 14-1098 (La. App. 4 Cir. 4/8/15), 165 So.3d 247, 254. Legal questions are reviewed *de novo*. *Norton*, 335 So.3d at 381.

The District Court was not required to Hear and Determine Interim Spousal Support Prior to Trying the Divorce Action

We first consider the issue of whether the district court was required to hear and determine the incidental matter of interim spousal support prior to ruling on Mr. Cage's request for an immediate divorce under La. C.C. art. 103(4) or (5) and find that it was not. La. C.C. art. 113(A) states:

Upon motion of a party, the court may award a party interim spousal support based on the needs of that party, the ability of the other party to pay, any interim or final child support obligation, and the standard of living of the parties during the marriage. An award of interim spousal support shall terminate one hundred eighty days from the rendition of a judgment of divorce, except that the award may extend beyond one hundred eighty days but only for good cause shown.

Article 113(A) contains no requirement that interim spousal support be ruled upon prior to the granting of a divorce and such a requirement is negated by La. C.C. art. 105, which provides that:

In a proceeding for divorce ***or thereafter***, either spouse may request a determination of custody, visitation, or support of a minor child; support for a spouse; injunctive relief; use and occupancy of the family home or use of community movables or immovable; or use of personal property. (Emphasis added).

Additionally, La. C.C.P. art. 425, which requires all causes of action arising out of the same transaction or occurrence to be asserted in the petition and La. C.C.P. art. 1061, which requires all causes of action arising out of the same transaction or occurrence as the main demand to be asserted in any reconventional demand, do not apply to matters incidental to divorce. *See* La. C.C.P. arts. 425(B)

and 1061(B). In *Gamble v. Gamble*, 22-102 (La. 4/20/22), 336 So.3d 452, 454, the Louisiana Supreme Court held that:

The provisions of La. C.C. art. 105, La. C.C.P. art. 425, and La. C.C.P. art. 1061(B) allow, but expressly do not require, a defendant in a divorce action to assert claims for ancillary matters (such as for injunctive relief; support; child custody or visitation; and/or the possession of, use of, and/or ownership interest related to property and the like) either in the suit for divorce “or thereafter”; **therefore, a defendant in a divorce action has the choice of seeking ancillary relief in the divorce action or such a defendant may wait until after the divorce action is concluded.** (Emphasis added).

Based on the foregoing, we find that Ms. Cage’s ability to seek and/or be awarded interim spousal support is unaffected by the granting of an immediate divorce under Article 103(4), as support may be awarded retroactively. See *Bordelon v. Bordelon*, 20-356 (La. App. 3 Cir. 12/30/20), 311 So.3d 484, 486-87; *Martello v. Martello*, 06-594 (La. App. 1 Cir. 3/23/07), 960 So.2d 186, 193 (under a prior version of Article 113, the fact that claim for final periodic spousal support was extinguished at the time of the judgment of divorce based on spouse’s fault, did not preclude that spouse from being awarded interim spousal support, terminable as provided in Article 113); *Lockhart v. Norred*, 24-977 (La. App. 1 Cir. 10/6/25), 2025 WL 2825943 (interim spousal support was awarded after the divorce judgment for the time period from the date of demand to one hundred eighty days after the judgment of divorce). Any such retroactive award, however, would be subject to the provisions of Article 113(A).

The District Court did not err in Granting Mr. Cage a Divorce Pursuant to La. C.C. Art. 103(4) and not granting Ms. Cage a Divorce Pursuant to La. C.C. Art. 102

Mr. Cage filed his Petition on December 13, 2023, alleging marital problems and that Ms. Cage was on drugs and was “very abusive.” On January 12, 2024, he filed the Amended Petition seeking an immediate divorce under La. C.C. art. 103(5) based on the temporary orders of protection and the Stay-Away Order. Alternatively, he sought an immediate divorce under La. C.C. art. 103(4) as a

result of the alleged pepper-spray incidents and Ms. Cage's arrest on November 25, 2023. In the further alternative, Mr. Cage requested a divorce pursuant to La. C.C. art. 102 and alleged that the parties began living separate and apart on November 11, 2023.

On January 30, 2024, Ms. Cage filed her Reconventional Demand, seeking a divorce under La. C.C. art. 102 and incidental relief. Ms. Cage alleged, for purposes of Article 102, that she and Mr. Cage had begun living separate and apart on December 7, 2023.

La. C.C. art. 102 states, in pertinent part, that:

[A] divorce shall be granted upon motion of a spouse when either spouse has filed a petition for divorce and upon proof that the requisite period of time, in accordance with Article 103.1, has elapsed from the service of the petition, or from the execution of written waiver of the service, and that the spouses have lived separate and apart continuously for at least the requisite period of time, in accordance with Article 103.1, prior to the filing of the rule to show cause.

The "requisite period of time," under Article 103.1 is one hundred eighty days when, as here, there are no minor children of the marriage. The parties alleged differing dates as to when they began living separate and apart. There is no evidence to support either party's allegation relative to the date on which the parties began living separate and apart. Based on the evidence in the record, it would appear that the earliest date on which the parties would have begun living separate and apart would have been November 27, 2023, the day after Ms. Cage was allegedly arrested in conjunction with the alleged pepper-spraying incidents. In any case, it is clear that the requisite one hundred eighty days had not elapsed as of April 30, 2024, the date of the trial on Mr. Cage's rule for an immediate divorce. Accordingly, the district court did not err in declining to award Ms. Cage a divorce pursuant to Civil Code article 102.

The district court also did not err in granting Mr. Cage a divorce pursuant to La. C.C. art. 103(4). La. C.C. art. 103(4) provides that a divorce shall be granted

on the petition of a spouse upon proof that the other spouse has committed physical abuse during the marriage. The petitioning spouse bears the burden of proving his claims of physical abuse by a preponderance of the evidence. *See Tidwell v. Tidwell*, 49,512 (La. App. 2 Cir. 11/19/14), 152 So.3d 1045, 1047. A finding of fault is an issue that turns largely on evaluations of witness credibility. *Noto v. Noto*, 09-1100 (La. App. 5 Cir. 5/11/10), 41 So.3d 1175, 1179; *Schmitt v. Schmitt*, 09-415 (La. App. 4 Cir. 12/16/09), 28 So.3d 537, 540. A trial court's finding of fault in a domestic dispute is a factual determination entitled to great weight on appeal and will not be disturbed in the absence of a showing of manifest error. *Barnett v. Barnett*, 15-766 (La. App. 5 Cir. 5/26/16), 193 So.3d 460, 466, *writ denied*, 16-1205 (La. 10/10/16), 207 So.3d 406; *McFall v. Armstrong*, 10-1041 (La. App. 5 Cir. 9/13/11), 75 So.3d 30, 35; *Dufresne v. Dufresne*, 08-215 (La. App. 5 Cir. 9/16/08), 992 So.2d 579, 586, *writ denied*, 08-2843 (La. 12/17/08), 996 So.2d 1123.

Here, the district court heard the testimony of both Mr. and Ms. Cage and believed Mr. Cage's testimony that Ms. Cage sprayed him with pepper spray on November 25, 2023, knowing that he suffered from asthma. For her part, Ms. Cage testified both that she did not attack Mr. Cage with pepper spray and that she did. Ms. Cage also invoked her Fifth Amendment right against self-incrimination when questioned about whether she pepper-sprayed Mr. Cage. The district court found Ms. Cage's admission, coupled with the negative inferences drawn against her as a result of her refusal to answer questions on the ground that her answers might incriminate her, sufficient to demonstrate that Ms. Cage sprayed Mr. Cage with pepper spray. The district court also found the attack on Mr. Cage to be sufficient to constitute physical abuse for purposes of Article 103(4).

Although Ms. Cage testified that Mr. Cage had been physically abusive to her during the marriage, Article 103(4) does not contain a requirement that the

other spouse be free from fault in order to obtain a divorce under that provision. To the contrary, a trial court may render a judgment of divorce notwithstanding the mutual fault of the parties as long as the judgment of divorce is based on one of the grounds set forth in La. C.C. art. 102 or La. C.C. art. 103. *See Norton*, 335 So.3d at 384-85. In *Norton*, we held that:

[T]he spouse seeking a divorce under La. C.C. art. 103(4), after proving by a preponderance of the evidence that he or she was physically abused by the other spouse during the marriage, is [not] precluded from obtaining a fault-based divorce because he or she may also bear responsibility, or be ‘mutually at fault,’ in the breakup of the marriage.

Id. at 385.

Mr. Cage’s fault was not at issue. The district court did not abuse its discretion or commit manifest error in determining, based on the evidence introduced at the trial on Mr. Cage’s rule for an immediate divorce, that Ms. Cage committed physical abuse of Mr. Cage during the marriage, and particularly, in conjunction with the pepper spray incident that occurred inside the couple’s home on November 25, 2023. On that basis, the district court’s judgment granting Mr. Cage an immediate divorce pursuant to La. C.C. art. 103(4) was correct.

DECREE

For all of the reasons stated above, the district court’s May 15, 2024 Judgment granting plaintiff-appellee, Clarence Christopher Cage, an immediate divorce pursuant to La. C.C. art. 103(4) is affirmed.

AFFIRMED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED
IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY
NOVEMBER 12, 2025 TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL
PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-CA-139

E-NOTIFIED

40TH DISTRICT COURT (CLERK)		
HONORABLE VERCELL FIFFIE (DISTRICT JUDGE)		
VERCELL FIFFIE (APPELLEE)	DASHAWN P. HAYES (APPELLEE)	HESTER R. HILLIARD (APPELLANT)
ROBERT R. FAUCHEUX, JR. (APPELLANT)		

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