Fifth Circuit Court of Appeal
State of Louisiana

No. 26-CA-203

DEWUN FOSTER

versus

ANDE CHARLESE BUSHELL

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 871-335, DIVISION "F"
HONORABLE MICHAEL P. MENTZ, JUDGE PRESIDING

November 25, 2026

JOHN J. MOLAISON, JR.

JUDGE

Panel composed of Judges Jude G. Gravois,
John J. Molaison, Jr., and Scott U. Schlegel

REVERSED AND RENDERED

JJM
JGG
SUS

TRUE COPY

MORGAN NAQUIN
DEPUTY CLERK

COUNSEL FOR PLAINTIFF/APPELLANT,
DEWUN FOSTER

Sarah Stone
Anders F. Holmgren
Matthew R. Slaughter
Alixe L. Duplechain

DEFENDANT/APPELLEE,
ANDE CHARLESE BUSHELL

In Proper Person

MOLAISON, J.

In this appeal related to a divorce proceeding, the appellant, who was allowed to proceed as an *in forma pauperis* plaintiff by the district court, now seeks review of the court's denial of his request to assess costs against the defendant, the party cast in judgment, notwithstanding his status as the prevailing party. For the following reasons, we reverse the portion of the judgment denying his request to assess costs against the defendant, and we render judgment casting the defendant with all costs of these proceedings.[1]

PROCEDURAL HISTORY

On December 12, 2025, the Plaintiff/Appellant, Dewun Foster, filed a Petition for Divorce pursuant to La. C.C. art. 103(1) at the 24th Judicial District Court for the Parish of Jefferson against the Defendant/Appellee, Ande Charlese Bushell. The Petition's prayer requested that "any and all cost of these proceedings be assessed to Defendant." On the same date, Mr. Foster filed an In Forma Pauperis ("IFP") Affidavit, including the mover's affidavit, third-party affidavit, and a Legal Services/Pro Bono declaration. The Court granted Mr. Foster leave to proceed *in forma pauperis* under La. C.C.P. art. 5181 *et seq.* on December 12, 2025. Personal service of the Petition and accompanying documents was made on Defendant on December 22, 2025.[2] Mr. Foster executed and filed an Affidavit specifically attesting to the factual allegations in the Petition. A La. C.C. art. 103(1) default Certification was submitted, confirming the petition date of December 12, 2025; a separation date of August 13, 2023; a personal service date of December 22, 2025; and that the required delays had elapsed.

[1] The April 14, 2026 judgment at issue in these proceedings granted the parties' divorce. The plaintiff did not raise any issues regarding the divorce on appeal and thus, the portion of the judgment granting the divorce is not subject to our review.

[2] The word "Pauper" is included on the "Service Information" section of the citation document.

On April 14, 2026, the Domestic Commissioner reviewed the record, received proof, and rendered a Judgment of Divorce by default under Article 103(1). The Judgment granted the divorce and denied assessing "any and all costs of these proceedings" to the Defendant. Notice of Signing of the April 14, 2026 Judgment was issued on April 15, 2026, and was mailed on April 16, 2026.

On May 1, 2026, Mr. Foster moved for a devolutive appeal, stating he did not challenge the divorce but appealed "solely to correct the judgment by having all court costs assessed against the defendant" and invoking entitlement to proceed IFP on appeal under La. C.C.P. art. 5185(A). The district court granted the devolutive appeal on May 1, 2026 from the April 14, 2026 final judgment "with respect to the ruling on court costs" and ordered preparation of the appeal record without prepayment of costs based on the Plaintiff's IFP status. On May 11, 2026, the Domestic Commissioner issued Written Reasons for Judgment stating the court granted the default divorce on April 14, 2026, but denied the Plaintiff's additional request that costs be assessed against the Defendant. The reasons explain that, although La. C.C.P. art. 5186(C) generally condemns the party cast in judgment to pay costs due to public officers when judgment is in favor of an indigent party, the record did not show that the Defendant was apprised of the Plaintiff's IFP application or order, and due process limits default relief to matters for which the defendant had notice. Accordingly, the court denied the Plaintiff's request to assess any and all costs to the Defendant on due process grounds. This appeal followed.

ASSIGNMENT OF ERROR

The district court erred in denying Mr. Foster's request to assess court costs against the defendant, the party cast in judgment, in violation of Louisiana Code of Civil Procedure article 5186.

STANDARD OF REVIEW

Questions of law, including the interpretation and application of the Code of Civil Procedure articles governing assessment of costs and in *forma pauperis* status, are reviewed *de novo*. The appellate court is not required to give deference to the lower court in interpreting a statute. *Carver v. Louisiana Dep't of Pub. Safety*, 17-1340 (La. 1/30/18), 239 So.3d 226, 230.

LAW AND ANALYSIS

The *in forma pauperis* privilege was extended to divorce and separation proceedings following the United States Supreme Court's decision in *Boddie v. Connecticut,* 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971), which held that due process requires states to provide access to courts for divorce proceedings regardless of ability to pay. Louisiana's legislature amended La. C.C.P. art. 5181 in 1972 to conform to that constitutional mandate, as recognized by the Louisiana Supreme Court in *Jones v. Jones*, 297 So.2d 198 (La. 1974). Under Louisiana law, when a plaintiff in a divorce action has been granted *in forma pauperis* status and judgment is rendered in his favor, the opposing spouse must be assessed all court costs. La. C.C.P. art. 5186(C) mandates this result, expressly providing that the party against whom judgment is rendered shall be condemned to pay all costs due to a public officer. This mandatory rule overrides the trial court's general equitable discretion to tax costs under La. C.C.P. art. 1920.[3] *Cage v. Cage*, 99-2072 (La. App. 1 Cir. 9/22/00), 809 So.2d 144, 145; *Snowton v. Snowton*, 09-600 (La. App. 4 Cir. 9/30/09), 22 So.3d 1111, 1112-13. This rule applies regardless of whether the divorce is contested or obtained by default, and regardless of the opposing spouse's

[3] La. C.C.P. art. 1920 generally grants trial courts discretion to render judgment for costs against any party as it may consider equitable. However, Louisiana appellate courts across all circuits have uniformly held that this general discretion is limited in IFP cases by the more specific and mandatory provision of Article 5186(C). As the Fourth Circuit stated in *Ulyanov v. Ulyanov*, 09-642 (La. App. 4 Cir. 9/23/09), 23 So.3d 380, 381, the Article 1920 discretion is limited in a pauper case by the more specific provision found in Article 5186, which mandates the assessment of costs to the party against whom judgment is rendered. This principle has been affirmed by the First, Second, Third, and Fourth Circuits. *See Cage v. Cage*, 99-2072 (La. App. 1 Cir. 9/22/00), 809 So.2d 144, 145; *Holloway v. Holloway*, 01-273 (La. App. 3 Cir. 6/6/01), 787 So.2d 600; *Porter v. Porter*, 46,754 (La. App. 2 Cir. 12/14/11), 79 So.3d 1287; and *Smith v. Smith*, 99-365 (La. App. 4 Cir. 5/5/99), 733 So.2d 729.

own financial circumstances or location; indeed, our sister circuit has enforced it even against a defendant who had left the jurisdiction, never responded to the petition or citation, and was likely judgment-proof. *Porter v. Porter*, 46,754 (La. App. 2 Cir. 12/14/11), 79 So.3d 1287, 1289. The opposing spouse's potential inability to pay does not alter the mandatory nature of the cost-shifting rule.

The grant of pauper status is within the trial court's discretion, and once granted, it stays in effect unless traversed or rescinded through the procedure set up by La. C.C.P. art. 5184. In this case, the record on appeal is devoid of any evidence that Mr. Foster's right to continue *in forma pauperis* was ever traversed or rescinded.

DUE PROCESS AND DEFAULT LIMITS

We note that the Commissioner's reasons for judgment were issued after the order of appeal had already been granted in this matter. The granting of an order of appeal divests the trial court of jurisdiction over all matters reviewable under the appeal pursuant to La. C.C.P. art. 2088, and the issuance of written reasons for judgment is not among the limited functions the trial court retains after divestiture. This Court has previously held that such post-appeal reasons ordinarily should not be considered by the appellate court. *See Perry v. Emps. Ins. of Wausau*, 24-535 (La. App. 5 Cir. 8/6/25), 421 So.3d 994, 1002, *writ denied*, 25-01137 (La. 11/19/25), 420 So.3d 1185. However, the appellant has not moved to strike the reasons for judgment from the record. Nevertheless, even if the reasons were properly before us, appellate courts do not review reasons for judgment as a part of the judgment itself. La. C.C.P. art. 1918; *Burmaster v. Plaquemines Parish Government*, 07-1311 (La. 8/31/07), 963 So.2d 378, 379 (per curiam). The Louisiana Supreme Court has held, however, that a court of appeal can use reasons for judgment to gain insight into the district court's judgment. *See Wooley v. Lucksinger*, 09-571 (La. 4/1/11), 61 So.3d 507, 572. We refer to the

Commissioner's reasons solely for that limited purpose, and we do not treat them as part of the judgment under review.

The Commissioner relied on due process and La. C.C.P. art. 1703's constraint[4] that default judgments may not award relief different in kind from that demanded. Here, the record shows the petition demanded assessment of costs against the Defendant, she was personally served, and the citation reflected "pauper" status. That notice of the object of the suit and the relief sought satisfies the default judgment constraint. La. C.C.P. art. 5186 and our state's jurisprudence do not recognize a distinct due process notice requirement specific to the cost assessment component of an IFP default divorce judgment. We therefore find the Commissioner legally erred by refusing to assess costs to the Defendant under Article 5186 after rendering judgment in favor of the indigent Plaintiff.

DECREE

For the reasons stated, we reverse the judgment insofar as it denied the assessment of costs against the Defendant, and we render judgment casting the Defendant, Ande Charlese Bushell, with all costs of these proceedings.

REVERSED AND RENDERED

[4] The article provides: "A default judgment shall not be different in kind from that demanded in the petition. The amount of damages awarded shall be the amount proven to be properly due as a remedy."

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, JR.
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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 25, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

26-CA-203

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE MICHAEL P. MENTZ (DISTRICT JUDGE)
ANDERS F. HOLMGREN (APPELLANT)
JAMES H. GILBERT (APPELLANT)
SARAH STONE (APPELLANT)

MAILED
ANDE CHARLESE BUSHELL (APPELLEE)
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