Fifth Circuit Court of Appeal
State of Louisiana

No. 26-CA-206

DIANNE M. BROWN

versus

DONOVAN R. COHN

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 868-413, DIVISION "K"
HONORABLE ELLEN SHIRER KOVACH, 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,
DIANNE M. BROWN

Sarah Stone
Anders F. Holmgren
Matthew R. Slaughter
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DEFENDANT/APPELLEE,
DONOVAN R. COHN

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 her request to assess costs against the defendant, the party cast in judgment, notwithstanding her status as the prevailing party. For the following reasons, we reverse the portion of the judgment denying her request to assess costs against the defendant, and we render judgment casting the defendant with all costs of these proceedings.[1]

PROCEDURAL HISTORY

On September 2, 2025, Plaintiff/Appellant, Dianne M. Brown, filed a Petition for Divorce pursuant to Civil Code article 103(1) against Donovan R. Cohn at the 24th Judicial District Court for the Parish of Jefferson. In the Petition's final sentence, she prayed "that any and all cost of these proceedings be assessed to the defendant." Along with the Petition, Ms. Brown filed an In Forma Pauperis ("IFP") Affidavit seeking leave to proceed *in forma pauperis*. The court granted her request to proceed *in forma pauperis* on September 3, 2025. Personal service on Mr. Cohn was accomplished by the Orleans Parish Sheriff's Office on October 27, 2025.[2] Mr. Cohn did not appear, and a default judgment of divorce was entered on March 11, 2026. Ms. Brown's proposed judgment included a request that costs be assessed against Mr. Cohn, but the district court crossed out that language and denied the requested costs in the judgment process.

Ms. Brown filed a timely motion for devolutive appeal on May 1, 2026, which the district court granted on May 5, 2026. On May 11, 2026, the court issued Written Reasons for Judgment explaining it granted the divorce but denied

[1] The March 11, 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 citation form included the designation "Pauper."

Ms. Brown's request to assess costs to the defendant. The court acknowledged La. C.C.P. art. 5186 and related jurisprudence but concluded that, under due process principles and La. C.C.P. article 1703, an assessment of costs against Mr. Cohn would violate his rights because the record did not show he was notified of the pauper status or of a statutory basis for shifting costs. The Written Reasons expressly state: "Plaintiff's request to assess any and all costs of these proceedings against Defendant is DENIED."

This appeal followed.

ASSIGNMENT OF ERROR

The district court erred in denying Ms. Brown'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 her 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 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 Ms. Brown's right to continue in forma pauperis was ever traversed or rescinded.

DUE PROCESS AND DEFAULT LIMITS

We note that the court'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

[3] La. Code Civ. Proc. Ann. 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.

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

The court 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 defendant and 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 court legally erred by refusing to assess costs to defendant under Article 5186 after rendering judgment in favor of the indigent plaintiff.

[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."

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, Donovan R. Cohn, with all costs of these proceedings.

REVERSED AND RENDERED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, 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 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-206

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE ELLEN SHIRER KOVACH (DISTRICT JUDGE)
ANDERS F. HOLMGREN (APPELLANT)
JAMES H. GILBERT (APPELLANT)
SARAH STONE (APPELLANT)

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