

Judgment rendered August 26, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 57,070-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

SHA'LETHEA LASHAY JACKSON Plaintiff-Appellant

versus

TRAVIS TRAVELL DONAHUE, SR. Defendant-Appellee

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Appealed from the
Fourth Judicial District Court for the
Parish of Ouachita, Louisiana
Trial Court No. 2024-3778

Honorable Frederick D. Jones, Judge

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FAMILY JUSTICE CENTER
By: Brittany Sullivan Lenard

ARTHUR GILMORE JR. Counsel for Appellee

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Before COX, MARCOTTE, and ELLENDER, JJ.

ELLENDER, J.

Sha’Lethea Jackson appeals a judgment that awarded her ex-husband, Travis Donahue, joint custody of the couple’s three minor children, granted Donahue unsupervised visitation with them, and declined to apply the Post Separation Family Violence Relief Act (“PSFVRA”). We amend the judgment solely to clarify the assessment of costs, but in all other respects we affirm.

PROCEDURAL BACKGROUND

On October 13, 2024, police were called to the couple’s home, at 1710 Rogers Street in Monroe, regarding a domestic incident. Officers arrived and arrested Jackson on charges of domestic abuse battery child endangerment for battering Donahue in the presence of the minor children; she was taken to jail and a temporary protective order was issued, but the criminal charge was eventually dropped, the state finding “insufficient information” to proceed.

On October 18, after bonding out of jail, Jackson filed a petition for protection from abuse alleging that on October 12 Donahue, who she claimed was intoxicated at the time, choked her, hit her, and punched her in the head in the presence of the minor children. In her petition, she detailed a history of physical attacks and intoxication, some involving just her and some involving the children. Jackson’s petition was granted, and a temporary restraining order was issued.

After a hearing officer (“HO”) hearing on November 14, the HO found Donahue had a drinking problem that often resulted in physical altercations between him and Jackson. The HO granted Jackson’s protective order but awarded Donahue supervised visitation of the children. The order was to be valid through November 15, 2025.

On March 6, 2025, Jackson filed this petition for divorce and incidental matters pursuant to La. C.C. art. 103(5). She alleged she and Donahue had been married since 2019, had three minor children, had been living separate and apart since October 14, 2024, and, citing the most recent protective order and Donahue's abusive behavior, she requested divorce under La. C.C. art. 103(5). Alleging Donahue had a history of physical abuse toward her and the children, abused alcohol regularly, and sexually assaulted her, Jackson requested sole custody pursuant to the PSFVRA, La. R.S. 9:341 et seq., with Donahue to have supervised visitation only after completing an alcohol abuse program, batterer's intervention program, and sexual perpetrator's program. In the alternative, she prayed for joint custody with her as domiciliary parent and Donahue to have only supervised visitation. She also prayed for continued use of the matrimonial domicile, under R.S. 9:374, and an order for Donahue to continue making the mortgage payments; she attached a letter from the lender showing Donahue was behind on payments. Finally, she asked for certification to proceed in forma pauperis.

Shortly after this, on March 31, Donahue was ordered in a separate support enforcement matter to pay child support of \$1,390.76 per month.

Donahue responded to Jackson's petition for divorce with an answer and reconventional demand. The answer alleged Jackson had obtained the protective order of November 14, 2024, through fraudulent means and false information; she was not entitled to a divorce under Art. 103(5) because *she* was the perpetrator of all physical violence in their home; and he often had to protect himself and the children from her outbursts. Donahue requested joint or shared custody with himself as domiciliary parent. He also disputed her claimed financial need, asserting she was voluntarily underemployed. The

reconventional demand alleged Jackson initiated the physical altercation on October 12, 2024, resulting in her arrest and detention for domestic abuse battery child endangerment on October 13, and he was never given the opportunity to have the protective order issued as a result of those charges; he prayed for the protective order against him to be dissolved.

Jackson answered the reconventional demand. She admitted the physical altercation that took place October 12, 2024, but argued Donahue started it, not her; she also admitted she had been arrested and charged as alleged, but the state dropped those charges for lack of evidence. She denied making any fraudulent claims to obtain a protective order and urged Donahue's violent history was documented by multiple protective orders. She also alleged Donahue was not exercising any supervised visitation under the current protective order. In support, she attached copies of the District Attorney's letter of November 15, 2024, declining the charges against her, and of an earlier protective order, dated June 4, 2020, and effective through December 4, 2021, against Donahue.

ACTION OF THE HEARING OFFICER

The parties proceeded to a hearing before the HO on June 12, 2025. The HO issued a detailed and comprehensive report setting out findings. Pertinent to this appeal, the HO found the PSFVRA was not applicable: both parties appeared to be bad actors, neither caused any bodily injury to the other, and their history, while volatile, did not justify finding either had a history of perpetrating family violence. Considering the best-interest standard of La. C.C. art. 134, the HO determined Jackson could not show it was in the best interest of the children that she have sole custody. However, in light of Donahue's obvious issues with alcohol, the HO recommended joint custody

with Donahue receiving supervised visitation, every other weekend and with the paternal grandfather supervising the visits. The HO also recommended dismissing Donahue's request to dissolve the protective order against him, thereby leaving it in place, and splitting the costs equally between the parties.

Both sides objected to the recommendation. Jackson argued the paternal grandfather was an inappropriate choice to supervise visitation; she had proved Donahue's history of family violence, by showing two previously issued protective orders; this activated the PSFVRA, making the paternal grandfather ineligible to serve as supervisor and excluding Donahue from supervised visitation until he completed the batterer's intervention and alcohol abuse programs. She reiterated her request for sole custody and, finally, she did not object to splitting the costs.

Donahue argued he was never given the opportunity to show the merits of his own requested protective order, to cross-examine his accusers, or to present evidence in his defense. He objected to naming Jackson domiciliary parent and to granting him only supervised visitation, as contrary to the children's best interest, and to giving Jackson use of the matrimonial domicile, as she had abandoned that house in October 2024.

While a hearing on the objections was pending, Jackson filed a rule to hold Donahue in contempt for failing to leave the matrimonial domicile as ordered.

ACTION OF THE DISTRICT COURT

A hearing on the objections was held before the district court on October 8, 2025. The parties both testified, attempting to paint the most negative picture of the other parent they possibly could; both obviously struggled to control themselves when dealing with each other. Jackson's

testimony, and that of her witnesses, focused on Donahue's drinking problem; Donahue focused on his desire to take an active role in the lives of his children. Counsel for Jackson argued for the application of the PSFVRA to the case; counsel for Donahue merely asked for joint custody.

The court granted Jackson her requested divorce under Art. 103(5) but left the interim protective order in effect pending a final ruling on custody and visitation. The court continued the contempt rule.

Jackson then filed another rule to hold Donahue in contempt, this time for failing to pay the mortgage on the matrimonial domicile; she also asked the court to extend the protective order because of his continued alcohol abuse.

The district court issued its judgment on December 22, 2025. It specifically rejected Jackson's argument to apply the PSFVRA, finding two protective orders insufficient to require application of the Act. The judgment granted Donahue visitation with the children every other weekend, with the first four visits to be supervised by the paternal grandfather. It prohibited both parents from using illegal drugs or consuming excessive amounts of alcohol while they exercised physical custody of the children. It named Jackson domiciliary parent and granted her exclusive use of the former matrimonial domicile; it ordered Donahue to ensure the mortgage was paid as directed by the lender. Jackson moved for an appeal on February 2; it was granted with a waiver of costs.

SUBSEQUENT ACTION IN THE DISTRICT COURT

Two days after Jackson moved for appeal, the district court heard her motions for contempt. Despite receiving notice of the hearing, neither Donahue nor his attorney was present.

The court found Donahue in contempt for failing to move out of the matrimonial domicile and cast him with all costs associated with the contempt rule, \$750 in attorney fees, and \$1,625 for rental reimbursement to Jackson. The court did not hold Donahue in contempt for failing to pay the mortgage, finding that Jackson did not provide any evidence that it was in fact delinquent. Jackson's counsel acknowledged having no appropriate evidence but stated she would file another rule, with the proper documentation.¹

The court issued a judgment with written reasons on March 25, 2026, largely mirroring its December 22 judgment, but including an in-depth discussion of why the PSFVRA was not applicable to this case. Pursuant to an order from this court, the district court issued an amended judgment stating the parties received joint custody of the children, with Jackson designated the domiciliary parent. Jackson appealed.

THE PARTIES' POSITIONS

Jackson designated five assignments of error but has argued only four.² First, she urges the district court erred in failing to apply the provisions of the PSFVRA, La. R.S. 9:361 et seq., and in failing to determine that Jackson met the burden of proof required to establish abuse. Her next two assignments challenge findings that stem from the court's ruling with respect to the PSFVRA: the court erred in awarding joint custody and dissolving the requirement of supervised visitation on Donahue's part; the court erred in failing to find Donahue successfully completed a court-monitored domestic

¹ The record does not show any subsequent filing.

² Her fourth assignment of error, urging the court failed to conduct a timely hearing for contempt and, thus, caused her undue hardship, is not argued in the text of the appellate brief. Assignments not argued on appeal are deemed abandoned. URCA Rule 2-12.4; *State in Interest of JM*, 13-2573 (La. 12/9/14), 156 So. 3d 1161; *State in Interest of KAS*, 53,613 (La. App. 2 Cir. 9/23/20), 303 So. 3d 688.

abuse intervention program, or a treatment program for sexual abusers, or that he was not abusing alcohol or using illegal substances. Her fifth assignment complains the judgment failed to address the issue of court costs, and owing to her pauper status she should be allowed to proceed without payment of costs.

Donahue submits the district court's written reasons for judgment are sound and supported by the record.³

APPLICABLE LAW

In a proceeding for divorce or thereafter, the court shall award custody of a child in accordance with the best interest of the child. La. C.C. art. 131; *Hodges v. Hodges*, 15-0585 (La. 11/23/15), 181 So. 3d 700. If the parents agree who is to have custody, the court shall award custody in accordance with their agreement unless the provisions of R.S. 9:364 apply or the best interest of the child requires a different award. La. C.C. art. 132. Subject to the provisions of R.S. 9:364, in the absence of agreement, the court shall award custody to the parents jointly; however, if custody in one parent is shown by clear and convincing evidence to serve the best interest of the child, the court shall award custody to that parent. *Id.*; *Hodges v. Hodges, supra*. Relevant factors to be considered in determining the best interest of the child are listed in La. C.C. art. 134.⁴

³ Donahue also argues the appeal is premature because the district court did not render a definitive judgment of divorce; pursuant to this court's order of June 9, 2026, the district court filed an amended judgment with proper decretal language. We therefore deem the appeal timely.

⁴ These include: (1) The potential for the child to be abused, as defined by Ch. C. art. 603, which shall be the primary consideration; (2) The love, affection, and other emotional ties between each party and the child; (3) The capacity and disposition of each party to give the child love, affection, and spiritual guidance and to continue the education and rearing of the child; (4) The capacity and disposition of each party to provide the child with food, clothing, medical care, and other material needs; (5) The length of time the child has lived in a stable, adequate environment, and the desirability of maintaining continuity

The district court has great discretion in child custody cases based on its better opportunity to evaluate the credibility of witnesses; hence, that court's determination of custody issues is afforded great weight and will not be disturbed on appeal unless an abuse of discretion is clearly shown.

McCormic v. Rider, 09-2584 (La. 2/12/10), 27 So. 3d 277; *Harris v. Rogers*, 56,915 (La. App. 2 Cir. 7/15/26), ___ So. 3d ___.

In cases involving a history of committing family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, including sexual abuse, as defined in R.S. 14:403, whether or not a party has sought relief under any applicable law, the court shall determine an award of custody or visitation in accordance with R.S. 9:361 and 364. La. C.C. art. 134 (B); *Merrells v. Doray*, 53,551 (La. App. 2 Cir. 7/8/20), 299 So. 3d 208, *writ denied*, 20-01003 (La. 9/8/20), 301 So. 3d 30. The court may only find a history of committing family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence. La. C.C. art. 134 (B); *Merrells v. Dotray*, *supra*.

Whenever the court finds by a preponderance of the evidence that a parent has subjected any of his or her children or stepchildren to family

of that environment; (6) The permanence, as a family unit, of the existing or proposed custodial home or homes; (7) The moral fitness of each party, insofar as it affects the welfare of the child; (8) The history of substance abuse, violence, or criminal activity of any party; (9) The mental and physical health of each party – evidence that an abused parent suffers from the effects of past abuse by the other parent shall not be grounds for denying that parent custody; (10) The home, school, and community history of the child; (11) The reasonable preference of the child, if the court deems the child to be of sufficient age to express a preference; (12) The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party, except when objectively substantial evidence of specific abusive, reckless, or illegal conduct has caused one party to have reasonable concerns for the child's safety or well-being while in the care of the other party; (13) The distance between the respective residences of the parties; and (14) The responsibility for the care and rearing of the child previously exercised by each party.

violence, as defined in R.S. 9:361, or domestic abuse, as defined in R.S. 46:2132, or in other circumstances not applicable to this case, the court shall allow only supervised visitation between the abusive parent and the abused child or children until such parent proves by a preponderance of the evidence at a contradictory hearing that the abusive parent has successfully completed a court-monitored domestic abuse intervention program, as defined in R.S. 9:362, since the last incident of domestic violence or family abuse. La. R.S. 9:341 (A); *Hollingsworth v. Semerad*, 35,264 (La. App. 2 Cir. 10/31/01), 799 So. 2d 658.

Under the PSFVRA, there is created a presumption that no parent who has a history of perpetrating family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, or other specific conduct not applicable to this case, shall be awarded sole or joint custody of the children. La. R.S. 9:364 (A). The court may find a history of perpetrating family violence if the court finds that one incident has resulted in serious bodily injury or the court finds more than one incident of family violence. *Id.*; *Smith v. Holloway*, 53,352 (La. App. 2 Cir. 1/15/20), 289 So. 3d 647. When determining whether a parent has a history of perpetrating family violence, the court must review the total circumstances of the family, which may include the frequency and severity of the incidents, whether the violence occurred in the presence of the children, and to what extent there existed provocation for any violent act. *Lewis v. Lewis*, 34,031 (La. App. 2 Cir. 11/3/00), 771 So. 2d 856; *Marshall v. Thurman*, 25-309 (La. App. 5 Cir. 9/24/25), 423 So. 3d 211, *writ denied*, 25-01266 (La. 11/12/25), 420 So. 3d 710.

Should a history of family violence be proved to exist, such that application of the PSFVRA is mandated, failure to apply the provisions of R.S. 9:361 et seq. is reversible legal error, requiring a de novo review of the record. *Lewis v. Lewis, supra*. However, the district court's determination on matters of child custody and domestic abuse is entitled to great weight and will not be disturbed absent a clear abuse of discretion. *Wilson v. Brown*, 54,699 (La. App. 2 Cir. 8/10/22), 345 So. 3d 513, and citations therein; *Durand v. Rose*, 22-0300 (La. App. 4 Cir. 9/15/22), 366 So. 3d 484, writ denied, 22-01727 (La. 1/18/23), 353 So. 3d 127. A factual finding that the record does not support application of the PSFVRA is entitled to great weight. *Wilson v. Brown, supra*; *Dazet v. Nicolini*, 26-154 (La. App. 5 Cir. 7/21/26), ___ So. 3d ___.

DISCUSSION

Jackson has framed application of the PSFVRA as the center of her argument: because she proved an incident of abuse, she contends, the district court was mandated to apply the PSFVRA and deny all visitation to Donahue. Of course, the district court's findings in a child custody case are entitled to great discretion, as is that court's finding that the evidence does not support applying the PSFVRA. *McCormic v. Rider, supra*; *Harris v. Rogers, supra*; *Wilson v. Brown, supra*; *Dazet v. Nicolini, supra*.

On this record, we are unable to find the district court abused its great discretion. The court carefully outlined the long and conflicting testimony: Jackson claimed Donahue had a history of calling her derogatory names, choking her after arguments, pushing her head into walls or windows, verbal and physical attacks on the children, particularly the elder boy, favoring the younger boy over the elder boy, attempting to force Jackson into sexual acts,

beating or neglecting pets, and making demeaning remarks about Jackson's family. The court also acknowledged she had obtained two protective orders against Donahue. On the other hand, the court noted, Donahue denied all accusations and, further, he claimed that Jackson had a violent temper, was vengeful and manipulative, needed anger management treatment, had a history of physical aggression toward him, and caused chaos in the home with outbursts of anger in which she destroyed the children's and family's possessions.

Faced with these conflicting and recriminating claims, the court found it "probable" that the parties have a volatile relationship and both have engaged in arguments and verbal expressions of anger; however, the evidence did not show that either party committed any act which caused serious bodily injury to the other. The parties' history of volatility, though undesirable, did not justify finding that either of them had a history of perpetrating family violence. The court further found that Jackson obtained her second protective *one day after* she was released from jail on a family violence incident, and then asserted the facts of the same incident to support her protective order against Donahue. In light of this history, the court was unwilling to apply the PSFVRA, and that conclusion was well within the court's great discretion. We find no factual or legal error in the court's refusal to apply the PSFVRA, and Jackson's first assignment lacks merit.

With this finding, we may quickly address Jackson's next two assignments, which contest the court's failure to order relief in accordance with the PSFVRA. Without the application of the PSFVRA, there was no automatic denial of supervised visitation to Donahue under R.S. 9:364 (A)

and no automatic requirement that he complete a court-monitored domestic abuse program or any of the other remedies set out in R.S. 9:341 (A).

Jackson nevertheless contends, in passing, that the court erred in awarding the parties joint custody. The best interest of the child is the paramount consideration in any custody litigation, with joint custody being the preferred regime. La. C.C. art. 132; *Hodges v. Hodges*, *supra*.

The district court performed a detailed and comprehensive analysis of the evidence in light of the factors of Art. 134. The court found some factors were relatively even for the parties, including the potential for abuse, capacity and disposition to give love, affection, and spiritual guidance to the children, the permanence of the family unit, and willingness to encourage a relationship with the other parent. Other facts favored Jackson, such as the ties between her and the children, their home, school, and community history, and past responsibility for caring and rearing. Favoring Donahue was the capacity and disposition to provide the children's material needs. On these findings, the district court did not abuse its discretion in denying Jackson's claim for sole custody. However, given both parties' apparent lack of self-control, Donahue's history of abusing alcohol, and the two protective orders against him, the court found supervised visitation was warranted for the first four weekends of visitation awarded to him. On this record, we find no abuse of discretion. The assigned error lacks merit.

By her fifth assignment of error, Jackson urges the district court erred in failing to recognize her pauper status in the assessment of court costs. Unlike substantive issues, silence in a judgment as to costs is not a denial of costs; rather, it authorizes costs to "be paid by the party cast." La. C.C.P. art. 1920; *Danna v. Ritz-Carlton Hotel Co.*, 20-0116 (La. App. 4 Cir. 3/24/21),

365 So. 3d 679, *writs denied*, 21-00714, -00713 (La. 10/1/21), 324 So. 3d 1053, 1059. Because she received pauper status, she should be allowed prosecute or defend without paying costs in advance or as they accrue, La. C.C.P. art. 5181 (A), to the extent she is the “party cast.”

The amended judgment is indeed silent as to costs. Although it awarded joint custody, the substance was to make Jackson domiciliary parent and give Donahue only limited and supervised visitation; the only relief denied Jackson was sole custody status. Since she mostly prevailed, the district court would have been within its discretion to assess no costs against Jackson. However, for the sake of consistency, we will amend the judgment to state that any costs assessed against Jackson are assessed in accordance with La. C.C.P. arts. 5188 and 5186.

CONCLUSION

For the reasons expressed, the judgment is amended to provide that any costs assessed against Jackson are assessed in accordance with La. C.C.P. arts. 5188 and 5186. In all other respects, the judgment is affirmed.

Sha’lethea Lashay Jackson is to pay all appellate costs in accordance with La. C.C.P. arts. 5188 and 5186.

AMENDED AS TO COSTS; AFFIRMED IN ALL OTHER RESPECTS.