

STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT

2026 CA 0286

**PASTOR MARK ANTHONY SPELL AND
FIRST APOSTOLIC CHURCH OF EAST BATON ROUGE
PARISH D/B/A LIFE TABERNACLE CHURCH**

VERSUS

**GOVERNOR JOHN BEL EDWARDS, INDIVIDUALLY AND
IN HIS CAPACITY AS GOVERNOR OF THE STATE OF
LOUISIANA; ROGER CORCORAN, IN HIS INDIVIDUAL
CAPACITY AND OFFICIAL CAPACITY AS CHIEF OF POLICE
OF THE CITY OF CENTRAL, LOUISIANA; AND
SID GAUTREAUX, INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS SHERIFF OF EAST BATON ROUGE PARISH**

Judgment Rendered: SEP 18 2026

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On Appeal from the 19th Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Trial Court Docket Number C753362, Div./Sec. 26

Honorable Richard "Chip" Moore, Judge Presiding

* * * * *

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* * * * *

BEFORE: PENZATO, HESTER, STROMBERG, JJ.

PENZATO, J.

Plaintiffs, Mark Anthony “Tony” Spell and Life Tabernacle Church, appeal a judgment that sustained peremptory exceptions of no cause of action and *res judicata* in favor of all defendants, dismissing them from plaintiffs’ suit with prejudice. After review, we affirm. Defendant, former Governor John Bel Edwards, answered the appeal, seeking reversal of the trial court’s denial of his motion for sanctions pursuant to La. C.C.P. art. 863 and seeking an award of attorney fees and costs from this court pursuant to La. C.C.P. arts. 863 and 2164. The answer to the appeal is denied in part and granted in part.

PERTINENT FACTS AND PROCEDURAL HISTORY

Mark Anthony “Tony” Spell, the pastor of Life Tabernacle Church, held church services in violation of executive orders implemented by then-Governor John Bel Edwards in the early months of the COVID-19 pandemic. Local law enforcement officials, including Sid Gautreaux, III, East Baton Rouge Parish Sheriff; and Roger Corcoran, Chief of Police of the City of Central, enforced the Governor’s orders by issuing six misdemeanor summons to Spell for violating the orders. See *Spell v. Edwards*, 22-30075, 2023 WL 2110889, *1 (unpublished) (5th Cir. 2/17/23) and *State v. Spell*, 2021-00876 (La. 5/13/22), 339 So.3d 1125, 1128.

On May 7, 2020, Pastor Spell and Life Tabernacle Church (collectively, “Spell”) filed their first action against these officials in federal district court (referred to as the “Middle District”), asserting claims under 42 U.S.C. §1983 and seeking injunctive relief and damages for alleged violations of Spell’s rights under the United States and Louisiana constitutions. See *Spell v. Edwards*, 579 F.Supp.3d 806, 813 (M.D. La. 2022) and *Spell*, 2023 WL 2110889 at *1. Specifically, Spell alleged that Governor Edwards’ indoor crowd-size limits implemented in response to COVID-19 violated his First Amendment rights to freely assemble and to worship in the manner required by his faith. *Spell*, 579 F.Supp.3d at 813. Spell also filed suit in

state court in April 2021 (docket C-706311), asserting the same federal and state constitutional claims. Docket 706311 was removed to federal court and consolidated with that proceeding. See *Spell*, 579 F.Supp.3d at 818-19.

On January 12, 2022, the Middle District dismissed *Spell*'s federal claims for damages after concluding that Governor Edwards, Sheriff Gautreaux, and Chief Corcoran were entitled to qualified immunity.¹ *Spell*, 579 F.Supp.3d at 813. The Middle District also dismissed *Spell*'s claims for injunctive relief as moot, since the challenged COVID-19 restrictions expired on their own terms in 2020. Finally, the Middle District declined to exercise supplemental jurisdiction over *Spell*'s state law claims and dismissed those claims without prejudice. *Spell*, 579 F.Supp.3d at 826; see 28 U.S.C. §1368.

Spell appealed this decision to the United States Court of Appeals for the Fifth Circuit but limited his argument, asserting only that church assembly was beyond the jurisdiction of the government. *Spell*, 2023 WL 2110889 at *1. In its February 17, 2023 decision, the Fifth Circuit concluded that *Spell* "expressly waived" other arguments, including that the defendants' actions violated his constitutional rights under the current free exercise jurisprudence. Finding no merit in *Spell*'s jurisdictional argument, the Fifth Circuit affirmed the Middle District's dismissal of *Spell*'s federal claims for damages on grounds of qualified immunity. *Spell*, 2023 WL 2110889 at *1. The Fifth Circuit also affirmed the dismissal of *Spell*'s claims for injunctive relief and found the Middle District did not abuse its discretion by declining to exercise supplemental jurisdiction over *Spell*'s state law claims. *Spell*, 2023 WL 2110889 at *2.

¹ Before this decision was rendered, *Spell* appealed two prior rulings of the Middle District. See *Spell v. Edwards*, 962 F.3d 175 (5th Cir. 2020) (finding *Spell*'s claim for injunctive relief was moot, because the stay-at-home order expired on its own terms; appeal dismissed); and *Spell v. Edwards*, 849 F. App'x 509, 510 (5th Cir. 2021) (remanding to the district court to analyze *Spell*'s claims for damages under strict scrutiny review).

Spell thereafter filed this suit, his third, in state court in September 2024, again asserting claims against Governor Edwards, who left office in January 2024; Sheriff Gautreaux; and Chief Corcoran (sometimes referred to as “the government defendants”). As he did in his federal complaint, Spell alleged that Governor Edwards’ COVID-19 proclamations and their enforcement against him violated his constitutional rights protected by the United States and Louisiana constitutions. Spell also named Richard and Natalia Sherwin, private citizens who allegedly installed cameras and monitoring devices on/in their home for purposes of monitoring Spell and church attendees. According to Spell, the Sherwins acted in concert with the government defendants, at their request, or with their permission. Spell alleged the defendants were liable *in solido* for damages and sought injunctive relief against further constitutional violations.

In response, all defendants urged peremptory exceptions of lack of subject matter jurisdiction, asserting Spell’s claim for injunctive relief is moot because the COVID-19 proclamations at issue expired on their own terms years before the present suit was filed. See La. C.C.P. art. 927(A)(8). The government defendants also urged peremptory exceptions of *res judicata*, asserting the Middle District’s final decision finding they were entitled to qualified immunity bars relitigation of the same issues in state court under the doctrine of issue preclusion/collateral estoppel. See La. C.C.P. art. 927(A)(3). The Sherwins likewise raised an exception of *res judicata*, relying on the Middle District’s final judgment purportedly entered into the record of Spell’s first state court action (docket C-706311). Finally, each defendant raised an exception of no cause of action, advancing arguments relevant to Spell’s claims against it. See La. C.C.P. art. 927(A)(3). Pertinently, Governor Edwards asserted that he was entitled to various immunities, including state officer qualified immunity under Louisiana law.

Governor Edwards also filed a motion for sanctions pursuant to La. C.C.P art. 863, asserting that sanctions against Spell and/or his counsel were appropriate for several reasons. Particularly, Governor Edwards noted that Spell sought to enjoin enforcement of the expired COVID-19 proclamations and continued to seek damages for constitutional violations, even after the federal court determined Governor Edwards was entitled to qualified immunity and Louisiana uses the same immunity test.

Spell did not file written oppositions to the exceptions or motion for sanctions. Nevertheless, the trial court, in its discretion, allowed Spell's counsel to argue in opposition to the exceptions during the July 2025 hearing.² Regarding the exception of lack of subject matter jurisdiction, Spell acknowledged the claim for injunctive relief was "mooted some time ago" and further conceded that he refiled a previous suit and did not remove that claim. Spell agreed the claim for injunctive relief could be dismissed. After concluding arguments on the remaining exceptions, as well as Governor Edwards' motion for sanctions, the trial court took all matters under advisement. Thereafter, the trial court issued a written judgment, signed on September 4, 2025, sustaining the exception of lack of subject matter jurisdiction per the stipulation of the parties; sustaining the exception of *res judicata* and the exception of no cause of action in favor of all defendants, and dismissing all claims asserted by Spell against the defendants, with prejudice. Finally, the September 4, 2025 judgment denied Governor Edwards' motion for sanctions.

² The defendants pertinently supported their exceptions with Governor Edwards' COVID proclamations, pleadings filed by Spell, and opinions from the Middle District and the Fifth Circuit. Two defendants offered, filed, and introduced their exhibits into evidence during the July 2025 hearing. Later, when discussing exhibits with counsel, the trial court stated, "All exhibits have been *attached*." (Emphasis added.) We presume the trial court intended to "admit" all exhibits. Additionally, we may take judicial notice of Governor Edwards' proclamations pursuant to La. C.E. art. 202(B)(a) and consider the opinions rendered by the federal courts, which set forth the procedural history of the Spell litigation.

The trial court also issued written reasons. In its discussion regarding the exceptions of *res judicata*, the court concluded that all elements of federal issue preclusion were satisfied. As to the exceptions of no cause of action, the trial court found that, accepting all contents of Spell's petition as true, Governor Edwards was entitled to state officer qualified immunity. The court further concluded that Spell failed to plead any facts that in any way purported to establish that the Sherwins conspired with the other defendants to commit an intentional tort. The trial court did not provide reasons for sustaining the exceptions of no cause of action filed by Sheriff Gautreaux and Chief Corcoran.

Spell timely filed this appeal, and Governor Edwards timely answered the appeal, citing error in the trial court's denial of his motion for sanctions. Governor Edwards further sought an award of attorney fees and costs from this court pursuant to La. C.C.P. arts. 863(D) and 2164.

ISSUES ON APPEAL

Spell identified three assignments of error. First, he asserts the trial court erred by ruling the matter was *res judicata* as to all defendants where the Fifth Circuit did not adjudicate all claims, because he abandoned and waived substantive arguments (regarding qualified immunity). Instead, Spell attempted to "obtain a pure decision on the issue of jurisdiction[.]" Spell further maintains the Middle District's ruling was clearly erroneous, as acknowledged by the Fifth Circuit.

Second, Spell asserts the trial court erred by ruling the matter was *res judicata* as to all defendants where the state court claims were dismissed without prejudice by the federal court, without being ruled upon. Spell contends the state court issues

of qualified immunity are not identical to the federal court issues and were, therefore, never litigated.³

Third, Spell contends the trial court erred “in ruling on a finding of qualified immunity” where the Louisiana Supreme Court previously found a violation of the U.S. Constitution as to Spell, and the Fifth Circuit indicated that longstanding U.S. law regarding freedom of religion would overcome the ruling of the federal trial court on qualified immunity, but for Spell’s waiver of the pertinent arguments.

Sheriff Gautreaux and Chief Corcoran

Spell’s first two assignments of error strictly relate to the trial court’s ruling on the defendants’ exceptions of *res judicata*. Reading Spell’s third assignment of error broadly, it may refer to the trial court’s finding that Governor Edwards was entitled to qualified immunity under Louisiana law, as stated in the court’s reasons for sustaining the Governor’s exception of no cause of action. However, the trial court did not expressly find that Sheriff Gautreaux and Chief Corcoran were entitled to qualified immunity as the basis for sustaining their exceptions of no cause of action. No arguments advanced by Spell on appeal relate to the trial court’s decision to sustain the exceptions of no cause of action in favor of Sheriff Gautreaux and Chief Corcoran. Therefore, the only issue related to these defendants before this court for review is the portion of the September 4, 2025 judgment that sustained their exceptions of *res judicata*. The correctness of the trial court’s ruling on these defendants’ exceptions of no cause of action is not before us for review. See Rule 1-3, Uniform Rules of Louisiana Courts of Appeal; see also *Boyd v. Johnson*, 2025-

³ Spell further asserts that “certain actions” taken by Governor Edwards were beyond the scope of his authority, giving rise to personal liability. However, Spell did not identify the referenced actions allegedly taken by Governor Edwards and did not brief the issue. He likewise did not argue this before the trial court or offer evidence to support his allegation. Thus, we do not address this unsupported contention, which we consider abandoned. See *Royer v. Our Lady of the Lake Hospital, Inc.*, 2017-1764 (La. App. 1 Cir. 2/22/19), (unpublished), 2019 WL 851165, *11, *writ denied*, 2019-0489 (La. 5/28/19), 273 So.3d 307 (All assignments of error and issues for review must be briefed. The court may consider as abandoned any assignment of error or issue for review which has not been briefed.) See Rule 2-12.4(B)(4), Uniform Rules of Louisiana Courts of Appeal.

0989 (La. App. 1 Cir. 5/28/26), (unpublished) 2026 WL 1514436, *7 and *Council v. Livingston*, 2016-1228 (La. App. 4 Cir. 9/20/17), 410 So.3d 220, 235, writ denied, 2017-1773 (La. 12/5/17), 231 So.3d 30.

As a result, even if this court were to reverse the portion of the September 4, 2025 judgment that sustained the exceptions of *res judicata* in favor of Sheriff Gautreaux and Chief Corcoran, the suit would still be dismissed against these defendants by virtue of the remaining portion, which sustained the exceptions of no cause of action in favor of all defendants. It is well settled that courts will not decide abstract, hypothetical or moot controversies, or render advisory opinions. *Joseph v. Ratcliff*, 2010-1342 (La. App. 1 Cir. 3/25/11), 63 So.3d 220, 225. Therefore, we affirm the portion of the September 4, 2025 judgment that sustained the exceptions of no cause of action in favor of Sheriff Gautreaux and Chief Corcoran.

Richard and Natalia Sherwin

As private actors, the Sherwins were not entitled to the protection of qualified immunity, which is available only to state actors. See *City of Escondido, California v. Emmons*, 586 U.S. 38, 42, 139 S.Ct. 500, 503, 202 L.Ed.2d 455 (2019). On appeal, Spell makes no arguments related to the Sherwins. Therefore, the correctness of the trial court's ruling as it relates to the Sherwins is likewise not before us for review. See Rule 1-3, Uniform Rules of Louisiana Courts of Appeal; *Boyd*, 2026 WL 1514436 at *7. We affirm the portion of the September 4, 2025 judgment that sustained the exception of no cause of action in favor of Richard Sherwin and Natalia Sherwin.

Governor Edwards

When a state court is called upon to decide the preclusive effect of a judgment rendered by a federal court exercising federal question jurisdiction, the federal law of *res judicata* must be applied. *Watson Memorial Spiritual Temple of Christ v. Korban*, 2024-00055 (La. 6/28/24), 387 So.3d 499, 504, cert. denied, 145 S.Ct.

1169, 221 L. Ed. 2d 251 (2025). Federal appellate courts reviewing the *res judicata* effect of a prior judgment apply the *de novo* standard of review. *Watson*, 387 So.3d at 504; *Sellers v. Nationwide Mutual Fire Ins. Co.*, 968 F.3d 1267, 1272 (11th Cir. 2020).⁴

Under federal law, the phrase “*res judicata*” includes both claim preclusion (*res judicata*) and issue preclusion (collateral estoppel). *Stewart v. City of Hammond*, 2020-0851 (La. App. 1 Cir. 3/29/21), 322 So.3d 1253, 1257. Issue preclusion, relevant here, bars the relitigation of issues actually litigated and necessarily decided in an earlier case between the same parties. Once an issue of ultimate fact is actually and necessarily determined by a court of competent jurisdiction, that determination is conclusive in subsequent suits based on a different cause of action involving a party to the prior litigation. Thus, plaintiffs are barred from relitigating a claim in a subsequent lawsuit where three elements are present: (1) the issue at stake must be identical to the one involved in the prior action; (2) the issue must have been actually litigated in the prior action; and (3) the determination of the issue in the prior action must have been a necessary part of the judgment in that action. *Stewart*, 322 So.3d at 1258.

The Fifth Circuit consistently follows the strict approach to finality of judgments, linking the availability of an appeal for the prior decision with finality for issue preclusion purposes. See *Hacienda Records, L.P. v. Ramos*, 718 F. App’x 223, 229 (5th Cir. 2018); see also *Stevens v. Hospital Service District No. 1 of Tangipahoa Parish*, 2025-0240 (La. App. 1 Cir. 12/19/25), (unpublished) 2025 WL 3685011, *6. Here, Spell had the right to, *and did*, appeal the Middle District’s decision to the Fifth Circuit, who affirmed the lower court’s ruling in all respects.

⁴ Similarly, the standard of review of an exception of *res judicata* under Louisiana law requires an appellate court to determine if the trial court’s decision is legally correct. *Sutton v. Adams*, 2022-01672 (La. 3/7/23), 356 So. 3d 1030, 1032-33.

See 28 U.S.C. §1291. Therefore, under the strict approach embraced by the Fifth Circuit, the Middle District's decision is final for purposes of issue preclusion.

Furthermore, Spell's strategic decision not to challenge the Middle District's qualified immunity finding on the merits constituted a waiver and abandonment of the argument before the Fifth Circuit. See *Johnson v. Sawyer*, 120 F.3d 1307, 1316 (5th Cir. 1997); *Windhauser v. Board of Supervisors for Louisiana State University Agricultural and Mechanical College*, 360 F. App'x 562, 565 (5th Cir. 2010). See also *United States v. Olano*, 507 U.S. 725, 733, 113 S.Ct. 1770, 1777, 123 L. Ed. 2d 508 (1993) (Waiver is the intentional relinquishment or abandonment of a known right.)

As Spell points out, two judges on the Fifth Circuit concurred with the majority and noted that, had Spell not waived the disparate treatment argument, his victory was all but assured. *Spell*, 2023 WL 2110889, *3. This highlights the conclusiveness of Spell's waiver and abandonment of the arguments he now advances. He forfeited his right and only opportunity to challenge the merits of the Middle District's ruling, the correctness of which is immaterial to the *res judicata* analysis now before us. The general rule of *res judicata* requires that errors underlying a judgment be corrected on appeal or other available proceedings to modify the judgment or to set it aside and not made the basis of a second action on the same claim. *Procter & Gamble Co. v. Amway Corp.*, 376 F.3d 496, 500 (5th Cir. 2004). Whether the first judgment on the merits was correct does not enter into the *res judicata* analysis; even a purportedly incorrect judgment is entitled to *res judicata* effect. *Procter & Gamble Co.*, 376 F.3d at 500. Therefore, we find no merit in Spell's first assignment of error.

Spell next argues *res judicata* does not apply because the state law claims were dismissed without prejudice. However, this court has previously applied issue preclusion to bar the plaintiff from relitigating an issue decided by a federal court

where the state law claims were dismissed without prejudice. See *Stewart*, 322 So.3d at 1257, and *Webb v. Morella*, 2016-1153 (La. App. 1 Cir. 6/21/17), 224 So.3d 406, 409. This argument likewise has no merit.

Spell also contends that state and federal issues of qualified immunity are not identical and, therefore, were not litigated in the federal proceeding. Spell does not identify the issues he contends are unique to the Louisiana qualified immunity analysis, except to cite the Louisiana Supreme Court's decision, *State v. Spell*, 339 So.3d at 1140, wherein the court quashed the misdemeanor summons issued to Spell for his violations of Governor Edwards' COVID-19 orders. The supreme court concluded the orders did not satisfy strict scrutiny analysis under the First Amendment of the United States Constitution and were unconstitutional as applied to Spell. *State v. Spell*, 339 So.3d at 1140.

After review, we find nothing in the supreme court's *Spell* opinion that would warrant a different state officer qualified immunity analysis under Louisiana law, particularly considering qualified immunity applies to civil claims for damages. Similar to the First Amendment,⁵ the Louisiana Constitution states, "No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof." La. Const. Article I, §8; *State v. Spell*, 339 So.3d at 1131. Louisiana and federal courts likewise apply the same qualified immunity analysis, shielding government officials from civil liability if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. See *City of Escondido, California*, 586 U.S. at 42, 139 S.Ct. at 503; *Cunningham v. Castloo*, 983 F.3d 185, 190 (5th Cir. 2020); *Moresi v. State Through Department of Wildlife & Fisheries*, 567 So.2d 1081, 1094 (La. 1990); and *Mills v. Tarver*, 2021-0666 (La. App. 1 Cir. 12/30/21), 340 So.3d 959, 967. Whether an

⁵ The First Amendment pertinently states, "Congress shall make no law respecting an establishment of religion[] or prohibiting the free exercise thereof; ... or the right of the people peaceably to assemble[.]" U.S.C.A. Const. Amend. I.

official protected by qualified immunity may be held personally liable for allegedly unlawful official actions generally turns on the objective legal reasonableness of the action, assessed in light of the legal rules that were clearly established at the time the action was taken. *Williams v. Board of Supervisors, Louisiana Community & Technical College Systems*, 2018-554 (La. App. 3 Cir. 5/15/19), 272 So.3d 84, 92.

Therefore, the issue at stake in Spell's state action – whether Governor Edwards' conduct violated clearly established statutory or constitutional rights of which a reasonable person would have known – is identical to the one involved in the federal proceeding. As discussed, the issue was actually litigated in the federal proceeding through appeal, where Spell waived and abandoned his right to challenge the Middle District's qualified immunity determination. Finally, whether Governor Edwards and the remaining defendants were entitled to qualified immunity was the central focus of and a necessary part of the final judgment in the federal action. For these reasons, we affirm the portion of the September 4, 2025 judgment that sustained Governor Edwards' exception of *res judicata*, and pretermitt consideration of whether the trial court properly sustained the Governor's exception of no cause of action.

GOVERNOR EDWARDS' MOTION FOR SANCTIONS

In his answer to Spell's appeal, Governor Edwards asserts the trial court erred by denying his motion for sanctions and urges this court to award attorney fees and costs incurred on appeal pursuant to La. C.C.P arts. 863(D) and 2164. Spell did not oppose or otherwise address Governor Edwards' answer to the appeal.

Trial Court's Ruling on Motion for Sanctions

Louisiana Code of Civil Procedure article 863, the basis of Governor Edwards' motion for sanctions, pertinently provides that every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name. The attorney's signature shall constitute a certification by him that

he has read the pleading, and that to the best of his knowledge, information, and belief formed after reasonable inquiry, he pertinently certifies:

(1) The pleading is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

(2) Each claim, defense, or other legal assertion in the pleading is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law.

(3) Each allegation or other factual assertion in the pleading has evidentiary support or, for a specifically identified allegation or factual assertion, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

La. C.C.P. art. 863(B). Article 863 imposes an affirmative duty on attorneys and litigants to make an objectively reasonable inquiry into the facts and the law. *Landry v. Landry*, 2021-0337 (La. App. 1 Cir. 10/8/21), 331 So.3d 351, 356, *writ denied*, 2022-00044 (La. 3/2/22), 333 So.3d 835.

If, upon motion of any party, the court determines that a certification has been made in violation of Article 863, the court shall impose upon the person who made the certification or the represented party, or both, an appropriate sanction, which may include an order to pay to the other party the amount of the reasonable expenses incurred because of the filing of the pleading, including reasonable attorney fees. La. C.C.P. art. 863(D); see *Landry*, 331 So.3d at 356 (recognizing that, once a court finds a violation of Article 863, the imposition of sanctions is mandatory.)

In determining whether an attorney has breached the affirmative duty imposed by Article 863, the trial court should test the signer's conduct by inquiring what was reasonable to believe at the time the pleading was submitted. Furthermore, Article 863 is intended to be used only in exceptional circumstances; where there is even the slightest justification for the assertion of a legal right, sanctions are not warranted. A trial court's determination regarding the imposition of sanctions is

subject to the manifest error or clearly wrong standard of review.⁶ *Landry*, 331 So.3d at 356.

During the hearing on the motion for sanctions, Spell's counsel denied the lawsuit was frivolous and maintained his belief the suit was "good." Counsel admitted that he refiled the same lawsuit because he was unsure of the effect of making changes to the suit and wanted to avoid prescription. He further stipulated that the claim for injunctive relief was moot but was nevertheless included in the September 2024 petition. Regarding Spell's failure to oppose the exceptions and motions, Spell's counsel stated that he is "just a one-man shop and most of the stuff [he does for Spell] is pro bono, and [he has] to keep all the wheels spinning." Counsel indicated he became overwhelmed when he began to read Governor Edwards' exceptions and 374 pages of exhibits (which primarily consisted of prior pleadings and *Spell* judicial decisions). Finally, Spell's counsel stated that he "missed a step or two" in recent years due to health problems.⁷

In its written reasons, the trial court acknowledged the arguments made by counsel for Governor Edwards hold merit but stated it was "not deaf to the problems articulated by counsel for Pastor Spell and the health issues he has endured over the recent years."

We are constrained by the applicable standard of review to find no manifest error in the trial court's implicit factual determination that Article 863 was not violated. The trial court concluded that factual reasons other than those prohibited by Article 863(B) were the cause of the complained-of conduct outlined in Governor

⁶ Under the manifest error standard, the appellate court does not decide whether the factfinder was right or wrong; rather, it is required to consider the entire record to determine whether a reasonable factual basis exists for the finding and whether the finding is manifestly erroneous or clearly wrong. *Ramos v. Louisiana Farm Bureau Casualty Insurance Co.*, 2021-0228 (La. App. 1 Cir. 12/9/21), 333 So.3d 453, 457.

⁷ We note the explanations offered by Spell's counsel fail to address the repetitive and duplicitous actions, which border on an abuse of the judicial system. *See Mendonca v. Tidewater, Inc.*, 2011-0318 (La. App. 4 Cir. 9/7/11), 73 So.3d 407, 414, *writ denied*, 2011-2333 (La. 12/2/11), 76 So.3d 1179.

Edwards' motion for sanctions and Spell's failure to oppose the exceptions and motion. An appellate court must not reweigh the evidence or substitute its own factual findings because it would have decided the case differently. *Ramos v. Louisiana Farm Bureau Cas. Ins. Co.*, 2021-0228 (La. App. 1 Cir. 12/9/21), 333 So.3d 453, 457.

Sanctions for Frivolous Appeal

To the extent Governor Edwards asks this court to award sanctions pursuant to Article 863, this court has no such authority. The ability to impose sanctions under Article 863 is limited to the trial court. *Hampton v. Greenfield*, 618 So.2d 859, 862 (La. 1993). Instead, an appellate court may regulate conduct before it by awarding damages, including attorney fees, for frivolous appeal pursuant to La. C.C.P. art. 2164. *Hampton*, 618 So.2d at 862.

Appeals are favored, and damages for frivolous appeal are only allowed when it is obvious the appeal was taken solely for delay or counsel is not sincere in the view of the law he advocates. *Benoist v. Jackson National Life Ins. Co.*, 2022-0879 (La. App. 1 Cir. 3/1/23), 362 So.3d 957, 963. An appeal may also be frivolous if it does not present a substantial legal question. *IPF22, LLC v. Frazier*, 2024-0772 (La. App. 4 Cir. 6/6/25), 421 So.3d 181, 190, *writ denied*, 2025-00864 (La. 10/22/25), 419 So.3d 797; *Haydel v. Mollere*, 24-566 (La. App. 5 Cir. 4/23/25), 414 So.3d 1, 10 (awarding \$1,500.00 in attorney fees for frivolous appeal due in part to appellant's failure to cite any legal authority to counter appellee's arguments regarding the primary issues before the court.) However, the slightest justification for an appeal precludes damages for frivolous appeal. *Benoist*, 362 So.3d at 963.

Here, the appeal record was lodged on March 5, 2026. At that time, briefing deadlines were set, with Spell's brief due on March 30, 2026. After Spell failed to timely file an appellant brief, a notice of abandonment was issued on April 13, 2026, advising Spell that his appeal would be dismissed if a brief was not filed on or before

May 13, 2026. On May 13, 2026 at 11:51 pm, Spell filed a noncompliant brief, specifically, a brief he filed with the Fifth Circuit on December 30, 2020. On May 14, 2026, this court did not allow the brief to be filed and notified Spell that his brief failed to comply with the Uniform Rules of Louisiana Courts of Appeal. Later that night, Spell filed an application for rehearing, claiming the Fifth Circuit brief was accidentally filed with this court and urging this court to reinstate the appeal. Governor Edwards, along with the other defendants, filed written oppositions to the application for rehearing.

This court dismissed Spell's appeal on May 19, 2026, but subsequently granted the application for rehearing on July 2, 2026, noting Spell's appellant brief was attached to the application for rehearing. However, Spell's eight-page brief consisted primarily of procedural history and failed to present a substantial legal question. He offered no legal support for the arguments he advanced, which are contrary to well settled law. Additionally, Spell quoted the full text from the Fifth Circuit's concurring opinion, which clearly reflects the finality of his decision to waive substantive arguments before that court. Yet, he entirely disregarded the consequences of that decision and argued before this court that the claims were not adjudicated and had not been fully litigated in any court.

This, combined with the delay tactics employed prior to submitting his brief, leads this court to conclude this appeal was taken solely for delay and/or that Spell's counsel is not sincere in the view of the law he advocates. See Benoit, 362 So.3d at 963. Consequently, we grant Governor Edwards' answer to the appeal in part and award \$1,500.00 in attorney fees to Governor Edwards, against Spell, for work performed on this appeal.

CONCLUSION

For the foregoing reasons, we affirm the portions of the September 4, 2025 judgment that sustained the peremptory exceptions of no cause of action in favor of

Sheriff Sid Gautreaux, III; Chief of Police Roger Corcoran; Richard Sherwin; and Natalia Vladimuovna Sherwin and against Mark Anthony Spell and dismissed these parties with prejudice.

We further affirm the portion of the September 4, 2025 judgment that sustained the peremptory exception of *res judicata* in favor of John Bel Edwards and against Mark Anthony Spell and dismissed John Bel Edwards with prejudice. Finally, John Bel Edwards' answer to the appeal is denied in part; we affirm the portion of the September 4, 2025 judgment that denied his motion for sanctions pursuant to La. C.C.P. art. 863 and deny the request to award sanctions pursuant to Article 863 for Spell's conduct before this court. We grant John Bel Edwards' answer to the appeal in part and award \$1,500.00 in his favor and against Mark Anthony Spell for this frivolous appeal. All costs of this appeal are cast against Mark Anthony Spell.

JUDGMENT AFFIRMED. ANSWER TO APPEAL DENIED IN PART, GRANTED IN PART; SANCTIONS AWARDED.