

THERESA MATHIS

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NO. 2006-CA-1589

VERSUS

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COURT OF APPEAL

J.A. MATHIS

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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MURRAY, J., CONCURS AND ASSIGNS REASONS

I concur in the vacating of the trial court's judgment but for different reasons than those of the majority. I believe that sanctions are warranted under La. C.C.P. art. 863 (D) because there is no dispute that Appellee, Ms. Mathis, was neither domiciled nor residing in Orleans Parish at the time her petition was filed, nor had she any intention of establishing a domicile there. Moreover, her petition, which seeks a custody order, neglects to mention that there was a temporary custody order already in place. Ms. Mathis' failure to understand the meaning of the legal term "domicile" does not excuse her failure or her attorney's failure to comply with the terms of article 863 (B) regarding the verification of petitions.

I also concur in the remand of the matter to the trial court. However, I would remand for the sole purpose of having the trial court determine the extent of the sanctions that should be imposed in this case.

Accordingly, I respectfully concur in the result reached by the majority.