

**Fifth Circuit Court of Appeal**  
**State of Louisiana**

No. 26-CA-378

SUCCESSION OF JAMES ROY DAVIS JR.

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 876-092, DIVISION "D"  
HONORABLE JACQUELINE F. MALONEY, JUDGE PRESIDING

September 22, 2026

**JUDE G. GRAVOIS**  
**JUDGE**

Panel composed of Judges Fredericka Homberg Wicker,  
Jude G. Gravois, and Scott U. Schlegel

**APPEAL DISMISSED WITHOUT PREJUDICE**

**JGG**  
**FHW**  
**SUS**

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JALISA WALKER  
DEPUTY CLERK

COUNSEL FOR PLAINTIFF/APPELLANT,  
CARMELITA JOHNSON

Connie P. Trieu

**GRAVOIS, J.**

Appellant, Carmelita Johnson, appeals the June 16, 2026 judgment that denied her Judgment of Possession. Because this is an interlocutory judgment rather than a final appealable judgment, we dismiss the appeal for lack of appellate jurisdiction. However, because the motion and order for devolutive appeal was filed within 30 days of the date the judgment was issued, we consider the motion for appeal to be a notice of intent to seek writs and the order as setting a return date, and we thus grant appellant 30 days from the date of this opinion to file a supervisory writ application in this Court.

**PROCEDURAL BACKGROUND**

This matter arises out of a “Petition for Possession” and other pleadings filed by Carmelita Johnson, surviving spouse of the decedent, James Roy Davis, Jr., in this succession proceeding. On June 16, 2026, the matter came before the court on a *sua sponte* motion. During the hearing, the court explained in significant detail that several issues needed to be “corrected” before it would sign the proposed “Judgment of Possession.”<sup>1</sup> The court emphasized that the purpose of the hearing was an attempt to assist counsel with the necessary corrections so that her client could obtain a judgment of possession. The court ultimately denied the “Judgment of Possession.”<sup>2</sup>

On June 16, 2026, the same date as the hearing, the court signed a pleading captioned “Judgment of Possession,” placed an “X” on both pages of the pleading, and stamped “DENIED” on the portion of the pleading that includes the order/decreed language. The minute entry confirms that the court denied the proposed judgment “as it was submitted.” On June 18, 2026, appellant filed a “Notice of Expedited

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<sup>1</sup> Specifically, the court found that: (1) one of the affidavits of death and heirship did not comply with the Louisiana Civil Code; (2) a renunciation, rather than the required donative renunciation was completed; and (3) the proposed “Judgment of Possession” lacked language addressing ownership interests of the respective parties.

<sup>2</sup> After counsel inquired as to whether or not the judgment is final and appealable—specifically whether the court was solely denying a particular portion—the court confirmed that the “[J]udgment of [P]ossession” was denied and agreed “it would be an appeal, not a writ.”

Appeal” from the June 16, 2026 “Judgment of Possession.” The appeal was granted on June 22, 2026.

### **LAW AND ANALYSIS**

In *Succession of Cotaya*, 24-38 (La. App. 5 Cir. 12/5/24), 409 So.3d 860, this Court provided the framework for analyzing appellate jurisdiction in a succession proceeding involving a judgment that granted motions to consolidate and adopt pleadings and denied a petition to dismiss. *Id.* at 863–64. The analysis began with La. C.C.P. art. 2974:

Appeals from orders or judgments rendered in succession proceedings shall be governed by the rules applicable to appeals in ordinary proceedings, except that an order or judgment confirming, appointing, or removing a succession representative, or granting an interim allowance under Article 3321 shall be executed provisionally, notwithstanding appeal.

*Id.* at 863.

The first clause of La. C.C.P. art. 2974 confirms that appeals from orders and judgments rendered in successions shall be governed by the rules applicable to appeals in ordinary proceedings, and this Court thus concluded that Articles 1841, 1915, and 2083 apply to judicial review of succession judgments “the same as they apply to judgments in other proceedings,” meaning appellate jurisdiction extends only “to final judgments and interlocutory judgments when expressly provided by law.” *Id.*, citing *Succession of Ally*, 22-16 (La. App. 5 Cir. 12/31/22), 354 So.3d 1248, 1250; La. C.C.P. art. 2083.

Because the judgment in *Cotaya* did not determine the merits either in whole or in part, but rather only preliminary matters in the succession proceeding, this Court concluded that it was an interlocutory judgment. *Id.* at 864. The litigants “all remain[ed] in the case[;]” and therefore, the judgment “[did] not dispose of all issues in controversy or determine in full the merits of their respective claims.” *Id.* Moreover, the heirs had “not been placed in possession of their respective portions of their parents’ estates and a judgment homologating a final account ha[d] not been rendered.” *Id.*, citing La.

C.C.P. art. 3337.<sup>3</sup> Thus, “since the judgment [did] not adjudicate all claims, rights, and liabilities of all the litigants,” this Court found that it was not a final, appealable judgment. *Id.* This Court further concluded that the judgment did not fall within any of the succession articles providing an express right to appeal, such as a judgment homologating a tableau of distribution (La. C.C.P. art. 3308) or a final account (La. C.C.P. art. 3337), nor was it appealable as a partial final judgment under La. C.C.P. art. 1915(A).<sup>4</sup>

Applying a similar framework, the First Circuit in *Succession of Saucier*, 21-1466 (La. App. 1 Cir. 6/29/22), 344 So.3d 108, held that a partial judgment denying a surviving spouse’s claim was not final and appealable because “the heirs [had] not been placed in possession of their respective portions of the estate and a judgment homologating a final account by the administrator [had] not been rendered.” *Id.* at 113, citing *Matter of Succession of Smith*, 20-1139 (La. App. 1 Cir. 6/2/21), 326 So.3d 1252, 1254; La. C.C.P. art. 3337. The First Circuit emphasized that since the judgment was not conclusive of the succession proceedings, it did not constitute a final judgment. *Id.*, citing *Smith*, 326 So.3d at 1254. The court further noted that the Louisiana Code of Civil Procedure “grants the right to an immediate appeal of certain judgments rendered in succession proceedings,” but the judgment at issue was “not among those identified by the Code.” *Id.*; *Succession of Jaga*, 16-1291 (La. App. 1 Cir. 9/15/17), 227 So.3d 325, 327–328; and *Matter of Succession of Smith*, 20-1139 (La. App. 1 Cir. 6/2/21), 326 So.3d 1252, 1254. *See also Succession of Scott*, 23-826

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<sup>3</sup> La. C.C.P. art. 3337 provides in part: “[a] judgment homologating a final account has the same effect as a final judgment in an ordinary action.”

<sup>4</sup> Final judgments under La. C.C.P. art. 1915(A)’s exclusive list include when a court: (1) dismisses the suit as to fewer than all of the parties, defendants, third-party plaintiffs, third-party defendants, or interveners; (2) grants a motion for judgment on the pleadings as provided by Articles 965, 968, and 969; (3) grants a motion for summary judgment as provided by Articles 966 through 969, but not including a summary judgment granted pursuant to Article 966(E); (4) grants a judgment on either the principal or incidental demand, when the two have been tried separately, as provided by Article 1038; (5) grants a judgment on the issue of liability when that issue has been tried separately by the court, or when, in a jury trial, the issue of liability has been tried before a jury and the issue of damages is to be tried before a different jury; or (6) imposes sanctions or disciplinary actions pursuant to Article 191, 863, or 864 or Code of Evidence Article 510(G). *See* La. C.C.P. art. 1915(A)(1)–(6).

(La. App. 1 Cir. 3/20/24), 387 So.3d 652, 656, *writ denied*, 24-509 (La. 6/25/24), 386 So.3d 1085 (holding that a judgment that did not dismiss a party, was not a judgment of possession, and did not determine the merits of all issues in the succession proceeding was subject to appeal only as provided by La. C.C.P. art. 1915).

As in the cited cases, appellant has yet to be placed into possession of the estate, which is required to conclude the litigation. *See Succession of Russo*, 596 So.2d 365, 370 (La. App. 4 Cir. 1992) (holding that a judgment of possession terminates a succession proceeding); instead, the court denied the “Judgment of Possession” at the June 16, 2026 *sua sponte* hearing. The court advised counsel of specific corrections required before it would sign the “Judgment of Possession,” and the minute entry confirms that the proposed judgment was denied “as ... submitted.” The “Petition for Possession” was not dismissed and thus the proceedings remain open and pending. Because the merits are unresolved, the June 16, 2026 judgment is not a final judgment. Moreover, because a denial of a judgment of possession is not listed as one of the enumerated final judgments under La. C.C.P. art.1915(A) or provided an express right of appeal under the succession articles, we conclude that this Court is without appellate jurisdiction to review the ruling.

### **CONCLUSION AND DECREE**

This appeal is dismissed without prejudice for lack of appellate jurisdiction. However, because the motion for appeal was filed within 30 days of the date the judgment was issued, we consider the motion and order for appeal to be a notice of intent and an order setting a return date. Appellant is accordingly granted 30 days from the date of this opinion to file a supervisory writ application in this Court, if so desired.

### **APPEAL DISMISSED WITHOUT PREJUDICE**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
STEPHEN J. WINDHORST  
JOHN J. MOLAISSON, JR.  
SCOTT U. SCHLEGEL  
TIMOTHY S. MARCEL

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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  
**SEPTEMBER 22, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL  
PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in blue ink, reading "Curtis B. Pursell", is written over a horizontal line.

CURTIS B. PURSELL  
CLERK OF COURT

**26-CA-378**

**E-NOTIFIED**

24TH JUDICIAL DISTRICT COURT (CLERK)  
HONORABLE JACQUELINE F. MALONEY (DISTRICT JUDGE)  
CONNIE P. TRIEU (APPELLANT)

**MAILED**

NO ATTORNEYS WERE MAILED