Supreme Court of Texas

No. 24-0939

Hira Azhar,
Petitioner,

v.

Mohammad Ali Choudhri,
Respondent

On Petition for Review from the
Court of Appeals for the 1st District of Texas

PER CURIAM

Justice Huddle and Justice Young did not participate in the decision.

A man who has lived in Houston since he was three years old, who built several businesses in Texas, and who accumulated over $100 million in community assets during a Texas-domiciled marriage, traveled to Pakistan to obtain a unilateral divorce from his wife. He did so without her knowledge or consent, using an Islamic legal mechanism called *talaq*. His wife was not served with process. She was not heard. She received no notice at all until two years after the divorce was final.

In an unbroken line of decisions originating before the ratification of our Constitution, we have recognized the fundamental "principle of natural justice which requires a person to have notice of a suit before he can be conclusively bound by its result." *Shamrock Enters., LLC v. Top Notch Movers, LLC*, 728 S.W.3d 693, 700-01 (Tex. 2026) (Blacklock, J., concurring) (quoting *Lafayette Ins. v. French*, 59 U.S. (18 How.) 404, 406 (1855)). As a result, efforts to give notice "must include inquiries that someone who really wants to find the defendant would make." *In re E.R.*, 385 S.W.3d 552, 565 (Tex. 2012). Gamesmanship designed to "hide the ball" and prevent the defendant from learning of the lawsuit is inconsistent with our foundational notions of justice.

The Pakistani divorce judgment was issued contrary to these principles. Accordingly, it cannot be afforded comity. We reverse and remand to the trial court for further proceedings consistent with this opinion.

I

Husband and Wife married in Pakistan in 2008 when Wife was eighteen and Husband was twenty-eight. Husband had been living in Houston since age three but had traveled to Pakistan to find a wife through an arranged marriage. Wife came to Houston in 2010 after obtaining a visa.

Throughout the course of their marriage, the couple amassed over $100 million in community assets. At the same time, Wife alleges that Husband continuously abused her physically and emotionally. In 2012, Husband sent Wife back to Pakistan, ostensibly to renew her visa. But

this turned out to be a ruse: In January 2013, Husband divorced her, without her knowledge, through a *talaq* proceeding in Pakistan.

"A divorce under Sharia law is called a *talaq*." *Odeh v. Odeh*, 347 So.3d 376, 377 n.1 (Fla. Dist. Ct. App. 2021); *see also Marri v. Rizwan*, 579 P.3d 382, 391 (Utah App. 2025) (explaining that "*talaq*" "relate[s] to 'a religious divorce under Sharia Law' rather than to a legal divorce" (citation omitted)). American courts have recognized that "under Islamic law," a husband initiates a *talaq* divorce by pronouncing the words "I divorce thee" three times. *See Aleem v. Aleem*, 947 A.2d 489, 490 n.1 (Md. 2008). Our colleagues in North Dakota recently described *talaq* proceedings as follows:

> Under Islamic law, a husband has the right to initiate a divorce ("talaq") against his wife. All that is required to achieve talaq is for a husband to pronounce his intent to divorce his wife on three separate occasions, either verbally or in writing. The husband does not need to communicate his three pronouncements to his wife. She need not be present for them or even aware of them. A wife cannot object to a talaq.

Ali v. Osman, 38 N.W.3d 676, 683 n.1 (N.D. 2026) (quoting district court findings).

According to Wife, Husband did not inform Wife before or afterwards that they would be divorced. No one notified Wife of the proceedings or served her with process. Instead, Husband purported to effectuate service by publishing a notice in a small local Pakistani newspaper a mere five days in advance. Wife did not happen to come across that publication.

Two years later, Wife finally learned of Husband's actions. She then set about challenging that *talaq* divorce in Pakistan under

Pakistani law. When Wife made it back to Houston in June 2015, she promptly filed for divorce in a Harris County court and sought division of marital property. After much procedural wrangling across multiple Pakistani courts, the Pakistan Supreme Court in 2018 denied relief. (The parties dispute whether this denial was procedural or substantive, a debate we need not resolve today.) The Harris County trial court relied on those Pakistani proceedings to dismiss Wife's divorce petition for want of jurisdiction. The trial court granted comity to the Pakistan Supreme Court's judgment and thereby recognized that Husband and Wife were divorced in Pakistan as of May 22, 2013.

The trial court then denied Wife's claim for division of the marital estate. It heard testimony that under Pakistani law: (1) Wife was precluded from bringing additional claims for division of property under Pakistan's preclusion rules and its prohibitions against claim splitting; and (2) Pakistan does not recognize community property—instead, each party is entitled to the property titled in his or her own name. On the basis of that testimony, the trial court concluded that the Pakistani proceedings were conclusive. It accordingly rendered a take-nothing judgment against Wife. The court of appeals affirmed. ___ S.W.3d ___, 2023 WL 5615810, at *13 (Tex. App.—Houston [1st Dist.] Aug. 31, 2023). We reverse and remand to the trial court.

II

A

We first briefly review our prior pronouncements on the circumstances under which a foreign sovereign's judgment may be afforded comity.

In the nineteenth century, the U.S. Supreme Court explained that no sovereign is ever *required* to recognize the judgment of a foreign sovereign, and comity "is neither a matter of absolute obligation, on the one hand nor of mere courtesy and good will, upon the other." *Hilton v. Guyot*, 159 U.S. 113, 163-64 (1895). The Court then identified relevant considerations a state court should review consider in exercising its discretion. Particularly relevant here, it explained that "[a] judgment affecting the status of persons, such as a decree confirming or dissolving a marriage, is recognized as valid in every country, *unless contrary to the policy of its own law*." *Id.* at 167 (emphasis added). That view comports with the longstanding principle that in deciding whether to recognize a foreign judgment, American courts must balance "international duty and convenience" with the rights and protection of their own citizens. *Id.* at 164; *see also* JOSEPH STORY, COMMENTARIES ON THE CONFLICT OF LAWS 37 (1834) (explaining that comity of nations "is derived altogether from the voluntary consent [of each nation]" and is not required when comity would be "contrary to [the forum's] known policy, or prejudicial to its interests"). As Justice Story explained almost 200 years ago, "No nation can be justly required to yield up its own fundamental policy and institutions in favour of those of another nation." STORY, *supra*, at 26.[1]

[1] Of course, the recognition of international judgments implicates different concerns than the recognition of the judgments of our sister States, the issue at the heart of the U.S. Constitution's Full Faith and Credit Clause. *See* U.S. CONST., art. IV, § 1; *see also Fauntleroy v. Lum*, 210 U.S. 230, 237-38 (1908) (holding that States must give full faith and credit to judgments of fellow States); *Dalton v. Dalton*, 551 S.W.3d 126, 135 (Tex. 2018) (same); *cf. Baker v. Gen. Motors Corp.*, 522 U.S. 222, 233-36 (1998) (distinguishing

Our State's courts have said much the same. In *Banco Minero v. Ross*, for example, we applied principles of international comity to conclude that a Mexican judgment in a complex commercial dispute was "deserving of no recognition" in Texas. 172 S.W. 711, 714-15 (Tex. 1915). That case involved a complicated web of transactions and lawsuits among two Texas citizens, a Mexican bank, and a number of Mexican citizens. *Id.* at 712. Relevant here, the Texas citizens were the subjects of a Mexican court judgment. *Id.* We determined that the foreign judgment was issued without personal jurisdiction as to one of the Texas citizens, and therefore void, because it was "rendered on service by publication," and that Texas citizen had never appeared. *Id.* at 714. The other did appear, but we nevertheless declined to recognize the Mexican judgment as to him, as well. *Id.* We concluded that because the Mexican court failed to provide the Texas citizen an opportunity to be heard, its resulting judgment was "arbitrary," and therefore undeserving of comity. *Id.* at 715.

Our analysis identified a number of considerations guiding the recognition of a foreign country's judgment: proper jurisdiction; a "full and fair trial"; a "system of civilized jurisprudence"; and impartiality as between citizens and foreigners. *Id.* at 714. Foreign judgments, we noted, do not merit comity when they result from fraud or demonstrate "prejudice in the court or in the system of laws." *Id.* Finally, there must be no other reason to deny recognition under principles of comity. *Id.*

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between *recognizing* judgments of other States and *enforcing* those judgments); *Adar v. Smith*, 639 F.3d 146, 158-61 (5th Cir. 2011) (en banc) (same).

We have explored that last consideration—principles of comity—in at least two notable cases. First, in *McElreath v. McElreath*, we were asked to recognize an Oklahoma divorce decree that divided the marital estate according to Oklahoma's common-law system rather than Texas's community-property regime. 345 S.W.2d 722, 724 (Tex. 1961). We held that the Oklahoma judgment was entitled to recognition under principles of comity. *Id.* at 733. But we cautioned that the parties were Oklahoma residents with no Texas marital property rights, and that Oklahoma law, while different from Texas law, pursued the same general objective of equitable property distribution upon divorce. *Id.* at 723-25, 733. We did not resolve how comity should work when the foreign legal system's approach to marital property is fundamentally incompatible with Texas's, and we warned that—under comity principles—foreign judgments are unenforceable when they "contravene an established public policy in this State." *Id.* at 733.

Then came our seminal decision in *Gannon v. Payne*, 706 S.W.2d 304 (Tex. 1986). Payne had sued and won a judgment against Gannon in a Canadian court in connection with a breach of contract. *Id.* at 305. After that judgment became final, Payne filed a related suit in Dallas County, which led Gannon to file a suit of his own in a Canadian court seeking to establish that the subject of the Dallas litigation had already been resolved in the prior Canadian litigation. *Id.* Payne then obtained a temporary injunction from the Texas trial court prohibiting Gannon from pursuing the Canadian suit. *Id.*

Gannon required us to decide whether the Texas trial court erred in enjoining the Canadian proceedings. *Id.* We held that it did, and in

so doing, we articulated important principles that remain relevant today. *Id.* at 306-08. Echoing *Hilton*, we characterized comity as a doctrine of mutual convenience among nations, and we noted that "[t]here are no precise guidelines . . . for deciding whether comity should be invoked." *Id.* at 307. Partly out of respect for our Canadian counterparts and partly for reasons not relevant here, we concluded there was no basis to halt the parallel Canadian proceedings. *Id.* But we reiterated that such an injunction might be appropriate if necessary to prevent the "subver[sion]" of "an important public policy of this state." *Id.*; *see also id.* ("Some courts have issued anti-suit injunctions . . . to prevent evasion of important public policies of the forum nation.").

McElreath and *Gannon* thus both confirm that international comity is never mandatory, and in fact is inappropriate when the foreign judgment violates the public policy of Texas. This public-policy exception is a longstanding and well-recognized principle. *See, e.g.*, *Jaffe v. Accredited Sur. & Cas. Co.*, 294 F.3d 584, 591 (4th Cir. 2002) ("[A] state can refuse . . . to recognize a *foreign* judgment on the ground that it conflicts with the public policy of that state."); *Ali*, 38 N.W.3d at 684 (affirming district court's decision denying comity to a *talaq* divorce certificate); *Aleem*, 947 A.2d at 502 ("The *talaq* divorce of countries applying Islamic law, unless substantially modified, is contrary to the public policy of this state and we decline to give *talaq*, as it is presented in this case, any comity."); *Herron v. Passailaigue*, 110 So. 539, 542 (Fla. 1926) (courts have no obligation to enforce a foreign country's judgment if it is contrary to "some paramount rule of public policy"); *see also* TEX. CIV. PRAC. & REM. CODE § 36A.004(c)(3) (providing an exception to

recognition when judgment of foreign country "is repugnant to the public policy of this state" under the Uniform Foreign-Country Money Judgments Recognition Act); TEX. FAM. CODE § 162.023(a) (providing an exception to recognition of foreign country's adoption order if it "violates" the "public policy of this state"). Echoing Justice Story, our courts refuse to "enforce doctrines, which, in a moral, or political view, are incompatible with [our] own safety or happiness, or conscientious regard to justice and duty." STORY, *supra*, at 26.[2]

B

Our State's Executive and Legislative branches have sought to clarify the situations in which comity may be extended to a foreign sovereign's judgment.

In 2016, in response to a request from a Texas legislator, the Texas Attorney General issued a formal opinion letter discussing the circumstances in which Texas courts should refuse to recognize the judgments of foreign countries. *See* Tex. Att'y Gen. Op. No. KP-0094 (2016). Relying heavily on *Banco Minero* and other precedents discussed above, the Attorney General agreed that international judgments should not be recognized in Texas courts when they are issued without due process or when they run contrary to Texas public policy. *Id.* at 1-3;

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[2] Our State's courts of appeals have occasionally confronted comity issues in connection with foreign divorce decrees, but our Court has not taken up any. *E.g.*, *Telegina v. Nechayuk*, No. 09-22-00383-CV, 2024 WL 5080262 (Tex. App.—Beaumont Dec. 12, 2024, no pet.); *In re Marriage of Sabir & Javed*, No. 05-23-00837-CV, 2024 WL 3507200 (Tex. App.—Dallas July 23, 2024, no pet.); *Nikolenko v. Nikolenko*, No. 01-20-00284-CV, 2022 WL 479988 (Tex. App.—Houston [1st Dist.] Feb. 17, 2022, pet. denied); *Fuentes v. Zaragoza*, 555 S.W.3d 141 (Tex. App.—Houston [1st Dist.] May 31, 2018, no pet.); *Ashfaq v. Ashfaq*, 467 S.W.3d 539 (Tex. App.—Houston [1st Dist.] 2015, no pet.).

id. at 1 ("[D]ue process requires that" no effect shall be given "to a judgment elsewhere acquired without due process." (quoting *Griffin v. Griffin*, 327 U.S. 220, 228 (1946))). The Attorney General emphasized that mere differences between Texas law and the law of a foreign jurisdiction are not sufficient. Instead, the foreign law must "violate[] good morals, natural justice, or [be] prejudicial to the general interests of [Texas's] own citizens." *Id.* at 1 (quoting *Robertson v. Est. of McKnight*, 609 S.W.2d 534, 537 (Tex. 1980)).

Shortly thereafter, our Legislature enacted HB 45. Act of May 22, 2017, 85th Leg., R.S., ch. 771, §§ 1-2, 2017 Tex. Gen. Laws 3276-78 (codified at TEX. GOV'T CODE §§ 22.022, .0041). Citing the Attorney General Opinion, the Texas Legislature made findings that litigants in Texas involving a marriage relationship are "protected against violations of constitutional rights and public policy" with respect to recognition and enforcement of foreign law and judgments. *Id.* § 1, at 3276.

HB 45 directed our Court to adopt rules implementing these "limitations on the granting of comity to a foreign judgment or an arbitration award involving a marriage relationship . . . to protect against violations of constitutional rights and public policy." TEX. GOV'T CODE § 22.0041(b). The statute further set parameters for the rules to be adopted and required our Court to provide an instruction course related to the limits on comity to foreign law and foreign judgments. *Id.* §§ 22.022, .0041(c).

Accordingly, our Court promulgated Texas Rule of Civil Procedure 308b. That rule imposes a number of procedural

requirements when a party seeks to enforce a foreign judgment (or arbitration award) involving a marriage relationship. TEX. R. CIV. P. 308b(b). Among those procedures are written notice of the request to enforce a foreign judgment within sixty days of the original pleading and written notice of any opposition thirty days after that. *Id.* R. 308b(d). Additionally, there must be a hearing and determination on whether to enforce the foreign judgment with subsequent findings of fact and conclusions of law. *Id.* R. 308b(f); *see also Sabir*, 2024 WL 3507200, at *4 (denying comity to Pakistani divorce because lack of notice did not comport with due process and discussing the husband's failure to comply with Rule 308b).

Our Court has not yet applied Rule 308b to a live dispute.[3]

III

With those background principles in mind, we turn now to the petition before us. Husband claims that the notice he provided of the Pakistani *talaq* proceeding—*i.e.*, publication in a local Pakistani newspaper, which Wife never saw, five days before the proceeding at issue—was adequate. We disagree, and we conclude that on these facts, the deficient notice forecloses comity.[4]

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[3] Rule 308b became effective on January 1, 2018. Because the present Harris County action was filed in June 2015, prior to Rule 308b's effective date, Rule 308b does not apply to this case.

[4] Husband further claims, and the court of appeals agreed, that Wife did not sufficiently preserve her arguments regarding the lack of notice of the Pakistani proceeding. *See* 2023 WL 5615810, at *10-11, n.5, 12. We disagree. Wife squarely argued in the trial court and her appellate briefing that the Pakistan divorce and related proceedings are not entitled to comity and that she should be able to pursue divorce in Texas under Texas law. We have long

As a separate writing (joined by the majority of the Court) recently observed, "under both the United States and Texas Constitutions, a 'fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *Shamrock*, 728 S.W.3d at 700-01 (Blacklock, J., concurring) (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 315 (1950)). This is "no mere rule of procedure," but rather, "a 'principle of natural justice which requires a person to have notice of a suit before he can be conclusively bound by its result.'" *Id.* (quoting *Lafayette Ins.*, 59 U.S. at 406). When courts render judgment "without any public notice of the proceedings, so that the parties in interest have no opportunity of appearing and making a defence, the sentence is not so much a judicial sentence as an arbitrary sovereign edict." *Windsor v. McVeigh*, 93 U.S. 274, 280 (1876) (citation omitted).

Because the notice requirement is not "a mere gesture," but rather a fundamental tenet of our justice system, the "means employed" to effectuate notice "must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it." *Mullane*, 339 U.S. at 315. As our Court has explained, "[a]ttempts to put the other party on notice of a lawsuit must therefore reflect the efforts of someone who '*wanted* to do it, not merely *had* to do it.'" *Shamrock*, 728 S.W.3d

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instructed courts to "broadly construe issues to encompass the core questions and to reach all issues subsidiary to and fairly included within them." *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*, 578 S.W.3d 469, 480 (Tex. 2019). In the circumstances presented here, we find no forfeiture.

at 701 (Blacklock, C.J., concurring) (quoting *Tex. State Univ. v. Tanner*, 689 S.W.3d 292, 299 (Tex. 2024)). We have elaborated that efforts to give notice "must include inquiries that someone who really wants to find the defendant would make." *E.R.*, 385 S.W.3d at 565.

To be sure, service by publication is not always impermissible, and there are situations in which it may be appropriate—as an obvious example, when the victims of terrorist attacks needed to serve Osama Bin Laden and other Al Qaeda operatives notice of pending lawsuits. *See, e.g.*, *Mwani v. bin Laden*, 417 F.3d 1, 8, 14 (D.C. Cir. 2005); *Smith v. Islamic Emirate of Afg.*, Nos. 01 CIV 10132(HB), 01 CIV 10144(HB), 2001 WL 1658211 (S.D.N.Y. 2001) (order). Still, we have cautioned "that citation by publication or posting violates due process when the address of a known defendant is readily ascertainable." *Mitchell v. MAP Res., Inc.*, 649 S.W.3d 180, 190 (Tex. 2022); *see also E.R.*, 385 S.W.3d at 564. Service by publication is not appropriate, in other words, when the defendant's location is readily ascertainable by a diligent search. Even when service by publication is permissible, courts still demand sufficiently broad publication across an appropriately lengthy timeframe. *E.g.*, *Mwani*, 417 F.3d at 5 (holding six weeks of publication in multiple major and mainstream news outlets was sufficient).

The notice in this case, involving five *days* of publication in a single obscure outlet, does not suffice. Notice by publication is "constitutionally inadequate" when it is both "possible and practicable" to provide more adequate warning. *E.R.*, 385 S.W.3d at 566 (citing *Jones v. Flowers*, 547 U.S. 220, 237 (2006)). The U.S. Supreme Court has

explained that a defendant will only see a small advertisement in a newspaper by chance. *Mullane*, 339 U.S. at 315.

This record forecloses the conclusion that Husband "really want[ed] to find" Wife and notify her of the divorce proceeding. *See E.R.*, 385 S.W.3d at 565. Husband put on no evidence that the typical channels of spousal communication—telephone, text messages, email, social media messaging, in-person communication, mutual friends, and so on—were unavailable. Under these circumstances, the trial court should have heeded the default rule that "when a defendant's identity is known, service by publication is generally inadequate." *Id.* at 560. As a matter of law, the notice provided here is constitutionally inadequate, and far short of what our public policy demands. Other countries are welcome to conclude otherwise, but their judgments are not entitled to comity in a Texas court.[5]

IV

No foreign judgment is entitled to comity when it contradicts the fundamental guarantees of the Texas and United States Constitutions. For the reasons set out above, the Pakistani proceeding challenged here exemplifies the type of foreign judgment that Texas courts may not enforce.[6]

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[5] We note that our decision today turns on case-specific considerations in light of settled principles of comity. We do not hold that comity must be denied *per se* to every foreign judgment that results from notice procedures that differ in any respect from those of Texas. But comity cannot be afforded where, as here, the foreign judgment is the product of a process incompatible with our foundational notions of justice.

[6] There may well be other reasons to deny comity to this Pakistani judgment, and Wife invokes multiple alternative bases in her petition. We do

Pursuant to Texas Rule of Appellate Procedure 59.1, without hearing oral argument, we grant the petition for review, reverse the court of appeals' judgment, and remand the case to the trial court for further proceedings consistent with this opinion.

OPINION DELIVERED: September 25, 2026

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not address those issues, however, because it is sufficient for our purposes to reverse the judgment below for the reasons set out in this opinion.