

SUPREME COURT OF LOUISIANA

NO. 07-CA-1311

MELVIN BURMASTER

V.

PLAQUEMINES PARISH GOVERNMENT

PER CURIAM

The State of Louisiana invokes the appellate jurisdiction of this court pursuant to La. Const. art. V, § 5(D), on the ground that the district court declared Act No. 545 of the 2006 Regular Session to be unconstitutional.¹

Pretermitted the merits, we find the appeal is not properly before this court. Article V, § 5(D) vests appellate jurisdiction in this court in cases in which “a law or ordinance has been declared unconstitutional. . . .” A review of the district court’s judgment indicates the court merely denied defendant’s exception of no cause of action. Nothing in the judgment declares a law or ordinance unconstitutional.

Although the district court’s oral reasons for judgment discuss the constitutionality of Act 545, it is well-settled law that the trial court’s oral or written reasons form no part of the judgment. *See* La. Code Civ. P. art. 1918; *see also Carmena v. East Baton Rouge Parish Sheriff’s Office*, 06-2680 (La. 2/2/07), 947

¹ Act 545 enacted La. R.S. 9:2800(H)(1), which provides in pertinent part:

(H)(1) Notwithstanding any provision of law to the contrary, except for gross negligence or willful and wanton misconduct, no person shall have a cause of action based solely upon liability imposed under Civil Code Articles 2317 and 2317.1 against a public entity for any damages arising from hurricanes Katrina or Rita, including aftereffects of either hurricanes and post-hurricane restoration, repair, cleaning and construction.

* * *

The provisions of this Subsection shall be given retroactive application to August 26, 2005.

So.2d 715; *Haynes v. United Parcel Service*, 05-2378 (La. 7/6/06), 933 So. 2d 765; *Spiers v. Roye*, 04-2189 (La. App. 1st Cir. 2/10/06), 927 So. 2d 1158; *Davis v. Hoffman*, 00-2326 (La. App. 4th Cir. 10/24/01), 800 So. 2d 1028; *LaRocca v. Bailey*, 01-0618 (La. App. 3rd Cir. 11/7/01), 799 So. 2d 1263; *City of Kaplan v. Mayard*, 616 So. 2d 826 (La. App. 3rd Cir. 1993); *Marino v. Marino*, 576 So. 2d 1196 (La. App. 5th Cir. 1991).

Because there is no declaration of unconstitutionality in the district court's judgment, there is no basis for the exercise of this court's appellate jurisdiction. Accordingly, the appeal is dismissed, and the case is remanded to the district court for further proceedings.