

SUPREME COURT OF LOUISIANA

NO. 2020-CA-1407

GOVERNOR JOHN BEL EDWARDS

V.

**LOUISIANA STATE LEGISLATURE, LOUISIANA HOUSE OF
REPRESENTATIVES, & CLAY SCHEXNAYDER, IN HIS
OFFICIAL CAPACITY AS SPEAKER OF THE HOUSE OF
REPRESENTATIVES**

**ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT,
PARISH OF EAST BATON ROUGE**

STC PER CURIAM

On October 8, 2020, Governor John Bel Edwards (“governor”) issued Proclamation Number 134 JBE 2020, which imposed certain restrictions in light of the COVID-19 pandemic. On October 23, 2020, the Louisiana House of Representatives delivered a Petition to Terminate State of Public Health Emergency (“House Petition”) to the governor. The House Petition, drafted pursuant to La. R.S. 29:768(B), ordered the governor to issue a proclamation terminating 134 JBE 2020 for a period of seven days. In addition, the House Petition ordered the governor to consult with the legislature for approval prior to the declaration of a post-suspension public health emergency.

The governor filed a petition for declaratory and injunctive relief against several defendants (collectively referred to as the “legislative defendants”), alleging the House Petition is an unconstitutional exercise of authority. The governor further alleged non-constitutional grounds for finding the House Petition was null, void and unenforceable, including detailed allegations that the legislative defendants failed to consult meaningfully with the public health authority as required by La. R.S. 29:768(B) prior to issuing the petition. The legislative defendants reconvened to seek a writ of mandamus against the governor.

The matter proceeded to a hearing before the district court. After the district court ruled on various exceptions and denied the request for mandamus, the parties stipulated that the court should “try the permanent injunction and declaratory judgment action as it relates to the constitutional issues only. . . .”

At the conclusion of the hearing, the district court rendered judgment declaring La. R.S. 29:768(B) to be unconstitutional. The legislative defendants now directly appeal to this court.

Pretermitted the merits, we find the district court erred in reaching the issue of constitutionality prior to determining whether the dispute could be resolved on non-constitutional grounds. In *Cat’s Meow, Inc. v. City of New Orleans Through Dept. of Fin.*, 98-0601, p. 16-17 (La. 10/20/98), 720 So.2d 1186, 1199, we explained

the well-settled principle that courts should avoid reaching or determining constitutionality unless it is essential to resolution of the case:

We have consistently held that courts should refrain from reaching or determining the constitutionality of legislation unless, in the context of a particular case, the resolution of this is essential to the decision of the case or controversy. *See Louisiana Associated Gen. Contractors, Inc. v. New Orleans Aviation Bd.*, 97–0752 (La. 10/31/97), 701 So.2d 130; *Cameron Parish Sch. Bd. v. Acands, Inc.*, 96–0895 (La. 1/14/97), 687 So.2d 84; *White v. West Carroll Hosp., Inc.*, 613 So.2d 150 (La. 1992). Further, our jurisprudence has resolved that the practice of courts is “never to anticipate a question of constitutional law in advance of the necessity of deciding it.” *Matherne v. Gray Ins. Co.*, 95–0975 (La.10/16/95), 661 So.2d 432, 434. Hence, courts should avoid constitutional rulings when the case can be disposed of on nonconstitutional grounds or basis. *Blanchard v. State*, 96–0053 (La. 5/21/96), 673 So.2d 1000; *Communist Party of U.S. v. Subversive Activities Control Bd.*, 367 U.S. 1, 81 S.Ct. 1357, 6 L.Ed.2d 625 (1961) (citing *Liverpool, New York & Philadelphia S.S. Co. v. Commissioners*, 113 U.S. 33, 39, 5 S.Ct. 352, 28 L.Ed. 899 (1885)). This principle is based, in part, upon the realization that, “by the very nature of the judicial process, courts can most wisely determine issues precisely defined by the confining circumstances of particular situations.” *See Parker v. County of Los Angeles*, 338 U.S. 327, 70 S.Ct. 161, 94 L.Ed. 144 (1949).

In the case before us, the governor alleged, among other things, that the House Petition was null and void because the legislature failed to consult meaningfully with the public health authority as required by La. R.S. 29:768(B). Because the district court failed to determine whether the House Petition was in compliance with the

applicable statutory requirements, we find the district court acted prematurely in reaching the issue of constitutionality.

For well over a century, this court has consistently refrained from entertaining questions as to the constitutionality of laws except where that determination is essential to the decision. *See, e.g., White v. W. Carroll Hosp., Inc.*, 613 So. 2d 150, 157 (La. 1992); *Benson & Gold Chevrolet, Inc. v. Louisiana Motor Vehicle Comm'n*, 403 So.2d 13, 23 (La. 1981); *State in Interest of Toler*, 262 La. 557, 568-69, 263 So.2d 888, 892 (1972); *Tafaro's Investment Co. v. Division of Housing Improvement*, 261 La. 183, 188, 259 So.2d 57, 59 (1972); *Aucoin v. Dunn*, 255 La. 823, 826-27, 233 So.2d 530, 531 (1970); *Doss v. Board of Commissioners of Mermentau Levee District*, 117 La. 450, 452-53, 41 So. 720 (1906); *Parish of St. Landry v. Stout*, 32 La. Ann. 1278, 1279 (1880); *see also Parker v. Los Angeles County.*, 338 U.S. 327, 333, 70 S. Ct. 161, 163-64, 94 L. Ed. 144 (1949) (explaining, "[t]he best teaching of this Court's experience admonishes us not to entertain constitutional questions in advance of the strictest necessity.").

While we acknowledge this case presents some novel issues which are important to the citizens of our state, we find it is unwise to depart from this bedrock principle of orderly statutory interpretation. Rather, it is critical a case must reach this court in the proper procedural posture to warrant our review of a ruling on

constitutionality. *See Matherne v. Gray Ins. Co.*, 95-0975 (La. 10/16/95), 661 So.2d 432.

Following this reasoning, we find the record in this case is not sufficiently developed to facilitate a complete review of the issues presented. Accordingly, pretermittting the merits, we must vacate the judgment of the district court and remand the case to the district court for further proceedings consistent with this opinion.

DECREE

For the reasons assigned, the judgment of the district court is vacated and set aside. The case is remanded to the district court, which is instructed to rule upon all non-constitutional arguments, reaching the constitutional challenge only if such a challenge is essential to resolution of the case.