

SUPREME COURT OF LOUISIANA

Greater New Orleans Expressway Commission v. Olivier

860 So. 2d 22 (La. 2003) · No. 2002-CA-2795 · Decided November 18, 2003

SUMMARY

The Louisiana Supreme Court held that it lacked appellate jurisdiction because the district court's judgment denied a petition for mandamus without expressly declaring La. R.S. 32:57(G) unconstitutional; the declaration appeared only in the written reasons for judgment. The court transferred the case to the Louisiana Fifth Circuit Court of Appeal, while dissenting justices would have exercised the court's supervisory jurisdiction to decide the constitutional and mandamus issues.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Kimball, J.; Knoll, J.; Weimer, J.; Victory, J.
JURISDICTION	Louisiana
DECIDED	November 18, 2003
DOCKET	2002-CA-2795
DISPOSITION	other
PROCEDURAL POSTURE	The Greater New Orleans Expressway Commission directly appealed a district court judgment denying its petition for writ of mandamus. The Commission asserted direct appellate jurisdiction under La. Const. art. V, § 5(D) because the district court's written reasons declared La. R.S. 32:57(G) unconstitutional.
STANDARD OF REVIEW	De novo review of appellate jurisdiction based on the language of the judgment and the governing constitutional jurisdictional provision.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; majority jurisdictional holding is precedential.
PARTIES	Greater New Orleans Expressway Commission v. Rebecca M. Olivier, George W. Giacobbe

TOPICS

- appellate jurisdiction
- appellate procedure
- constitutional law
- remedies

PRACTICE AREAS

appellate jurisdiction

appellate procedure

constitutional law

mandamus

remedies

QUESTIONS PRESENTED

1. Whether the Louisiana Supreme Court had direct appellate jurisdiction under La. Const. art. V, § 5(D) when the district court's written reasons, but not its judgment, declared La. R.S. 32:57(G) unconstitutional.

HOLDINGS

1. The Louisiana Supreme Court lacked direct appellate jurisdiction under La. Const. art. V, § 5(D) because the district court's judgment did not declare La. R.S. 32:57(G) unconstitutional; only the written reasons expressed that conclusion.

KEY QUOTATIONS

“A judgment and reasons for judgment are two separate and distinct documents.” (860 So. 2d at 24)

“Appeals are taken from the judgment, not the written reasons for judgment.” (860 So. 2d at 24)

FACTUAL BACKGROUND

The Greater New Orleans Expressway Commission polices and maintains the Huey P. Long Bridge and Lake Pontchartrain Causeway Bridge. Louisiana law imposed an additional five-dollar cost on persons convicted of or pleading guilty or nolo contendere to certain motor-vehicle offenses occurring on or near those bridges, with the proceeds designated for Commission police salaries and equipment. Judges Rebecca Olivier and George Giacobbe declined to collect the cost because they believed the statute was unconstitutional.

PROCEDURAL HISTORY

The Commission sought mandamus directing First Parish Court judges to collect an additional five-dollar cost imposed by La. R.S. 32:57(G). The district court denied mandamus and stated in written reasons that the statute was unconstitutional, but the judgment itself did not declare the statute unconstitutional. The Louisiana Supreme Court held that it lacked direct appellate jurisdiction and transferred the case to the Fifth Circuit Court of Appeal.

DISPOSITION

other

REMAND INSTRUCTIONS

The case was transferred to the Fifth Circuit Court of Appeal for further proceedings.

CASES CITED

- Fisher v. Rollins, 231 La. 252, 91 So. 2d 28 (1956)

- Huang v. Louisiana State Board of Trustees for State Colleges and Universities, 99-2805, p. 5 (La. App. 1 Cir. Dec. 22, 2000), 781 So. 2d 1
- McCalmont v. Jefferson Parish Sheriff's Office, 99-940, p. 6 (La. App. 5 Cir. Jan. 12, 2000), 748 So. 2d 1286
- McCalmont v. Jefferson Parish Sheriff's Office, 00-0679 (La. App. 20, 2000), 760 So. 2d 1160
- State v. Galliano, 02-2849, p. 3 (La. Jan. 10, 2003), 839 So. 2d 932
- Progressive Security Insurance Co. v. Foster, 97-2985, p. 2 (La. App. 23, 1998), 711 So. 2d 675
- State Bond Commission v. All Taxpayers, Property Owners and Citizens of State, 510 So. 2d 662 (La. 1987)
- State v. Wimberly, 414 So. 2d 666 (La. 1982)
- Loeb v. Collier, 131 La. 377, 59 So. 816 (1912)
- State ex rel. Union Sawmill Co. v. Summit Lumber Co., 117 La. 643, 42 So. 195 (1906)
- Louisiana Associated General Contractors, Inc. v. New Orleans Aviation Board, 99-0025 (La. July 7, 1999), 764 So. 2d 31
- State v. Peacock, 461 So. 2d 1040 (La. 1984)
- Hainkel v. Henry, 313 So. 2d 577 (La. 1975)
- Becker v. Dean, 03-2493, p. 4 (La. Sept. 18, 2003), 854 So. 2d 864
- Cenac v. Public Access Water Rights Association, 02-2660, p. 9 (La. June 27, 2003), 851 So. 2d 1006
- City of Baton Rouge v. Ross, 94-0695 (La. Apr. 28, 1995), 654 So. 2d 1311
- State v. Jones, 94-0459 (La. July 5, 1994), 639 So. 2d 1144

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