

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2011 CU 2211

DONNA LASSERRE SEVERIO

VERSUS

MACK HILL

Judgment Rendered: March 23, 2012.

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On Appeal from the
18th Judicial District Court,
In and for the Parish of Pointe Coupee,
State of Louisiana
Trial Court No. 43,631

The Honorable J. Robin Free, Judge Presiding

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BEFORE: CARTER, C.J., PARRO AND HIGGINBOTHAM, JJ.


TMH
RHS

CARTER, C.J.

Defendant/Appellant, Mack Hill, appeals from a district court judgment granting visitation to Plaintiff/Appellee, Donna Lasserre Severio, pursuant to Louisiana Revised Statutes section 9:344D. Severio filed a “Motion to Dismiss as Moot; Motion to Strike” with this court, moving to dismiss Hill’s appeal as moot and to strike Hill’s assignment of error regarding the constitutionality of Section 9:344D, which we referred to the merits of this appeal. For the following reasons, the appeal is dismissed as moot.

The judgment from which Hill appeals granted visitation to Severio on specific dates, and the last-allowed visitation date pursuant to the judgment took place in November 2011. It is well-settled that courts will not decide abstract, hypothetical, or moot controversies, or render advisory opinions with respect to controversies. *Louisiana State Board of Nursing v. Gautreaux*, 09-1758 (La. App. 1 Cir. 6/11/10), 39 So. 3d 806, 811. An issue is moot when a judgment or decree on that issue has been “deprived of practical significance” or “made abstract or purely academic.” *Louisiana State Board of Nursing*, 39 So. 3d at 811. If the case is moot, there is no subject matter on which the judgment of the court can operate. *Id.* Because the visitation dates ordered by the district court have already occurred, any opinion rendered by this court concerning the district court’s application of Section 9:344D would afford no practical relief and would amount to an improper advisory opinion. Based on the facts and circumstances of this case, the issue is moot.

Hill also challenged the constitutionality of Section 9:344D on appeal. The constitutionality of a statute must first be questioned in the district court, not the appellate courts, and the issue must be specially pleaded and the grounds for the

claim particularized. *Chinn v. Mitchell*, 98-1060 (La. App. 1 Cir. 5/14/99), 734 So. 2d 1263, 1266, citing *Vallo v. Gayle Oil Co., Inc.*, 94-1238 (La. 11/30/94), 646 So. 2d 859, 864-65. Because Hill did not properly raise the issue of constitutionality in the district court, the issue is not properly before us.

Because the issues before this court are moot or were not properly raised first in the district court, the appeal is dismissed as moot by summary disposition in accordance with Uniform Court of Appeal Rule 2-16.2A(1) and (3). Costs of this appeal are assessed to Defendant/Appellant, Mack Hill.

APPEAL DISMISSED.