

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2018 CA 1440

ROBERT K. DEVANCE

VERSUS

GEORGE R. TUCKER, TUCKER & ASSOCIATES, TUCKER LAW FIRM ETC.

Judgment Rendered: MAY 31 2019

**Appealed from the
Twenty-first Judicial District Court
In and for the Parish of Tangipahoa, Louisiana
Docket Number 2016-0002769**

Honorable Elizabeth P. Wolfe, Judge Presiding

**Robert K. DeVance
Hammond, LA**

Plaintiff/Appellant, In Proper Person

**George R. Tucker
Hammond, LA**

**Counsel for Defendants/Appellees,
George R. Tucker and George R. Tucker,
APLC**

BEFORE: WHIPPLE, C.J., McCLENDON, AND HIGGINBOTHAM, JJ.

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WHIPPLE, C.J.

This is an appeal from a judgment of the Twenty-first Judicial District Court in Tangipahoa Parish, granting defendants' motion for summary judgment. For the following reasons, we dismiss the appeal.

FACTS AND PROCEDURAL HISTORY

On October 14, 2016, plaintiff, Robert K. DeVance, filed a petition for damages for alleged legal malpractice, naming as defendants George R. Tucker, Tucker & Associates, and Tucker Law Firm. After answering the petition, Tucker and George R. Tucker, APLC, moved for summary judgment, contending that plaintiff had not asserted any allegations of fault against them and, thus, that plaintiff's claims against them should be dismissed as a matter of law.

Following a hearing on the motion, the district court signed a judgment on April 18, 2018, prepared by George R. Tucker, granting the motion for summary judgment as follows:

IT IS ORDERED, ADJUDGED, AND DECREED that Defendant's Motion for Summary Judgment and any and all documentation in support of the same is GRANTED. The Court also noted this is the final judgment in this matter.

Following the district court's denial of plaintiff's motion for new trial, plaintiff appealed the April 18, 2018 judgment.

After the record was lodged in this matter, this court found *ex proprio motu* that, while indicating that the motion for summary judgment was granted, the judgment did not specify the relief sought in the motion for summary judgment. Thus, by order dated November 7, 2018, this court ordered the parties to show cause by briefs whether the appeal should or should not be dismissed.

Plaintiff filed a brief in response to the show cause order, and this court thereafter issued an Interim Order on January 10, 2019, ordering that the case be remanded to the district court "for the limited purpose of allowing the court to sign

a judgment correcting the deficiencies noted in this court’s November 7, 2018 Rule to Show Cause Order.” This court further ordered that the appellate record was to be supplemented with any such judgment on or before February 11, 2019.

Thereafter, by letter dated March 20, 2019, the deputy clerk of district court informed this court as follows: “The judgment has not been corrected, it was given to [the district court judge] who appointed that George Tucker correct it, because it was his error. Tucker has not filed the corrected Judgment as of March 20, 2019.” Thus, the record in this matter has not been supplemented with a corrected judgment prepared by George Tucker or any other part, including the pro se plaintiff.

DISCUSSION

Appellate courts have the duty to determine *sua sponte* whether their subject matter jurisdiction exists, even when the parties do not raise the issue. Gaten v. Tangipahoa Parish School System, 2011-1133 (La. App. 1st Cir. 3/23/12), 91 So. 3d 1073, 1074. This court’s appellate jurisdiction extends only to “final judgments.” See LSA-C.C.P. art. 2083(A); Rose v. Twin River Development, LLC, 2017-0319 (La. App. 1st Cir. 11/1/17), 233 So. 3d 679, 683. Under Louisiana law, a final judgment is one that determines the merits of a controversy in whole or in part. LSA-C.C.P. art. 1841. A valid judgment must be precise, definite, and certain; must contain decretal language; and must name the party in favor of whom the ruling is ordered, the party against whom the ruling is ordered, and the relief that is granted or denied. Gaten, 91 So. 3d at 1074. These determinations should be evident from the language of the judgment without reference to other documents in the record. Advanced Leveling & Concrete Solutions v. Lathan Company, Inc., 2017-1250 (La. App. 1st Cir. 12/20/18), 2018 WL 6716997, at *2, ___ So. 3d ___, ___ (en banc).

The April 18, 2018 judgment sought to be appealed herein grants defendants' motion for summary judgment, but does not specify the relief granted nor does it dismiss any party. Thus, because the judgment lacks sufficient decretal language, ascertainable from the four corners of the order or judgment, the ruling on which this appeal is based is not a final appealable judgment. In the absence of a valid final judgment clearly stating or ordering the relief to be granted, we are constrained to conclude that this court lacks subject matter jurisdiction and the appeal must be dismissed. See Advanced Leveling & Concrete Solutions, 2018 WL 6716997 at *2, and Gaten, 91 So. 3d at 1074.

CONCLUSION

For the above and foregoing reasons, the appeal of the district court's April 18, 2018 judgment is hereby dismissed and the matter is remanded to the trial court. However, costs of this appeal are assessed against George R. Tucker.

APPEAL DISMISSED.