

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

DAVID F. BRADLEY, SR., :
Plaintiff :
 :
vs. : No. 21-0620
 :
LEHIGHTON AREA SCHOOL DISTRICT: :
RITA SPINELLE, NATHAN FOELLER :
AND LARRY STERN, :
Defendants :

David F. Bradley, Sr.
Brian Taylor, Esquire

Pro Se
Counsel for Defendants

MEMORANDUM OPINION

Matika, J. - February 9, 2022

Before the Court is a Motion for Summary Judgment filed by the Defendants, Lehigh Area School District, Rita Spinelli, Nathan Foeller and Larry Stern (collectively "Defendants" or individually, "LASD", "Spinelli", "Foeller" and "Stern", respectively)¹ to the complaint filed by Plaintiff, David F. Bradley, Sr. (hereinafter "Bradley"). For the reasons stated in this opinion, we **GRANT** the Motion for Summary Judgment and **DISMISS** the complaint with prejudice.

FACTUAL AND PROCEDURAL BACKGROUND

On February 11, 2021, Bradley filed the instant action alleging that on February 8, 2021, members of the LASD Finance

¹ Since the filing of this complaint, both Stern and Spinelli have resigned their positions on the LASD leaving only Foeller as an active member.

Committee, namely Foeller and Spinelli, violated 65 Pa.C.S. §710.1 (hereinafter "Sunshine Act")² by refusing to allow public participation in that meeting as allegedly required. Also, in that same complaint, Bradley alleged that on February 10, 2021, members of the LASD Policy Committee³, namely, Spinelli and Stern violated 65 Pa.C.S. §710.1 by refusing to allow public participation in that meeting as allegedly required. Bradley seeks various forms of declaratory relief related to the supposed actions of all or some of the Defendants as follows:

"1. I seek the courts to apply justice under the laws so our government officials will follow the laws of the State, specifically in this action, the Sunshine Act.

2. I pray for a restoration of the public's rightful ability to comment on matters before the government board prior to

² 65 Pa. C.S.A. §710.1 reads in pertinent part,

(a) General rule. Except as provided in subsection (d), the board or council of a political subdivision or of an authority created by a political subdivision shall provide a reasonable opportunity at each advertised regular meeting and advertised special meeting for residents of the political subdivision or of the authority created by a political subdivision or for taxpayers of the political subdivision or of the authority created by a political subdivision or for both to comment on matters of concern, official action or deliberation which are or may be before the board or council prior to taking official action. The board or council has the option to accept all public comment at the beginning of the meeting. If the board or council determines that there is not sufficient time at a meeting for residents of the political subdivision or of the authority created by a political subdivision or for taxpayers of the political subdivision or of the authority created by a political subdivision or for both to comment, the board or council may defer the comment period to the next regular meeting or to a special meeting occurring in advance of the next regular meeting. 65 Pa.C.S.A. §710.1(a).

³ Plaintiff, David F. Bradley, Sr. at the time of the February 10, 2021 meeting was also a member of the Policy Committee.

official action.

3. I seek the individuals that acted in defiance with the laws, to be punished, and educated.

4. I seek the end of the dictatorial regime that plagues our community, with government officials that arrogantly silence the very people they were elected to serve.

5. I seek the actions taken by the public official operating outside the Sunshine Act to be corrected by the courts since not only did these elected officials fail to properly apply the law, fulfilling their purpose as public servants, but as public officials, they chastise citizens attempting to correct matters without the need of the courts."⁴

On October 15, 2021, the Defendants filed the instant Motion for Summary Judgment. Briefing occurred and argument held on December 16, 2021. This matter is now ripe for disposition.

LEGAL DISCUSSION

"After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense

⁴ See Bradley's complaint, p. 5.

which could be established by additional discovery or expert report, or

- (2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury." Pa.R.C.P. 1035.2.

At a time where the pleadings are closed and there is no genuine issue of material fact as to a necessary element of a cause of action, summary judgment is appropriate. *Marcellus Shale Coalition v. Dept of Environmental Protection*, 193 A.3d 447 (Pa. Cmwlth. 2018). In considering a motion for summary judgment, a court must view the record in the light most favorable to the non-moving party. Any doubts as to whether a genuine issue of material fact exists must be resolved against the moving party. *Toy v. Metropolitan Life, Ins. Co.*, 928 A.2d 186 (Pa. Super. 2007).

In his complaint, Bradley intimates that he is seeking from the Court "declarative (sic) relief" because of the perceived violations of the Sunshine Act by the Defendants. If such is the case, we must analyze, therefore, whether Bradley's claims that the Defendants violated the Sunshine Act are worthy of

consideration under the Declaratory Judgment Act. 42 Pa. C.S.A. §7531.

Pursuant to 42 Pa. C.S.A. §7532,

"Courts of record, within their respective jurisdictions, shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree."

"Although the Declaratory Judgments Act is to be liberally construed, 42 Pa.C.S. §7541(a), one limitation on a court's ability to issue a declaratory judgment is that the issues involved must be ripe for judicial determination, meaning that there must be the presence of an actual case or controversy. *American Council of Life Insurance v. Foster*, 134 Pa. Cmwlth. 634, 580 A.2d 448 (1990). There can only be a case and a controversy where there are antagonistic claims indicating imminent and inevitable litigation, and declaratory judgment is an inappropriate remedy to determine rights in anticipation of events which may never occur. *Foster*, 580 A.2d at 451." *Ruszin v. Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of Workers Compensation*, 675 A.2d 366, 371 (Pa. Cmwlth. 1996).

With this in mind, this Court now examines each meeting to see if there is an actual case or controversy upon which a motion for summary judgment can be granted or denied.

I. FEBRUARY 10, 2021 POLICY COMMITTEE MEETING

In his complaint, Bradley alleges that Spinelli and Stern violated the Sunshine Act in that they "did not permit, nor provide, public comment by residents and/or taxpayers prior to official action."⁵ Attached to the Defendants' Motion for Summary Judgment as Exhibits C and D, respectively, are the minutes from this February 10, 2021 meeting and the transcript from that meeting. Before even addressing the issue of whether Bradley's claims of a violation of the Sunshine Act are concocted or genuine, we must first note that neither Stern nor Spinelli are members of the LASD.⁶ Since the "targeted" violators of the Sunshine Act are no longer parties to the case or controversy which Bradley seeks redress from the Court in the form of "declaring" relief, we see no genuine issue of material fact . . . it would serve no purpose to direct a member of LASD to do something to remedy grievances when they no longer serve the public in a capacity they are claimed to have violated by their actions or inactions at the February 10, 2021 Policy Committee meeting. Seeing no genuine issue of material

⁵ Paragraphs 35 and 36 of Bradley's complaint.

⁶ At argument, both Bradley and counsel for the Defendants stipulated to this fact for purposes of the argument on the Motion for Summary Judgment.

fact, we will grant Defendant's Motion for Summary Judgment relative to Count II of the complaint and dismiss that count with prejudice.

II. FEBRUARY 8, 2021, FINANCE COMMITTEE MEETING

In Count I, Bradley alleges that Spinelli and Foeller violated the Sunshine Act in that at this meeting they "did not permit, nor provide, public comment by residents and/or taxpayers prior to official action."⁷ At the outset, we grant Spinelli's Motion for Summary Judgment on Count I for the same reasons stated Supra. We note that as of the argument, Foeller remained a member of the LASD Board of Directors.

Attached to the Defendant's Motion for Summary Judgment as Exhibits A and B respectively, are the minutes from the February 8, 2021 Finance Committee meeting along with the transcript of that meeting. Assuming arguendo, that Foeller had an obligation under the Sunshine Act to allow for public comment before taking official action, a concept that Bradley argues Foeller has, a review of the transcript from that meeting evidences that Foeller did in fact allow for it. Further, Foeller himself believed that he had that obligation when he stated "Mr. Bradley, regarding your accusation that I took official action, no official action can be taken. This is a committee meeting. That will be taken at the

⁷ Paragraphs 23 and 24 of Bradley's Complaint.

board meeting. And the public absolutely has the opportunity to comment as you just did in this meeting."⁸ Further, a review of this entire transcript does not show anywhere that Foeller thwarted anyone's attempts to comment. Thus, we have no genuine issue of material fact regarding Foeller's conduct at this meeting which would allow this case to move forward. In fact, Foeller himself did and said exactly what Bradley demands the Court order him to do . . . let the people speak.⁹ Without an actual case or controversy regarding Spinelli or genuine issue of material fact regarding Foeller, we must grant the Motion for Summary Judgment on Count I as well and also dismiss it with prejudice.

CONCLUSION

Based on the foregoing, this Court enters the following:

⁸ See p 15-16, Lines 19-25, 1-2 of Exhibit B.

⁹ The reference to what Foeller believed he was obligated to do *vis-à-vis* public comment and the Court's reference to it herein should not and does not create an inference that this Court is making a ruling that there is or is not an obligation on Foeller's part to allow public comment at any time during the Finance Committee meeting. We simply note them here to illustrate the lack of a genuine issue of material fact giving rise to the granting of the Defendants' Motion for Summary Judgment.

FILED
2022 FEB 17 5:47
CARBON COUNTY
PROthonETARY

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

DAVID F. BRADLEY, SR., :
Plaintiff :
vs. : No. 21-0620
LEHIGHTON AREA SCHOOL DISTRICT: :
RITA SPINELLE, NATHAN FOELLER :
AND LARRY STERN, :
Defendants :

David F. Bradley, Sr.
Brian Taylor, Esquire

Pro Se
Counsel for Defendants

ORDER OF COURT

AND NOW, this 9TH day of February, 2022, upon consideration of the Motion for Summary Judgment filed by the Defendants, Lehigh Area School District Board, Rita Spinelli, Nathan Foeller and Larry Stern and the briefs lodged by the parties and after argument thereon, it is hereby **ORDERED and DECREED** that said Motion for Summary Judgment is **GRANTED** and the complaint **DISMISSED** with prejudice.

BY THE COURT:



Joseph J. Matika, J.