

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

JAMES CAMP,

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Plaintiff,

*

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vs.

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CASE NO.: 06-CV-1586

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BETTY B. CASON, in her official
capacity as Probate Judge for

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*

Carroll County, Georgia and

*

BILL HITCHENS in his official

*

capacity as the Commissioner of the

*

Georgia Department of Public Safety,

*

*

Defendants.

*

DEFENDANT BETTY CASON'S MOTION TO DISMISS

COMES NOW, Defendant Betty B. Cason, Probate Judge of Carroll
County, Georgia, through counsel and moves this Court for an Order to dismiss
this action as moot. A further explanation of the basis for the motion is contained
in the accompanying brief in support of the instant action.

Respectfully submitted, this 25th day of July, 2006.

S/ DAVID A. BASIL

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Carrollton, Georgia 30112

Attorney for Betty Cason

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CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2006, I electronically filed DEFENDANT BETTY CASON'S MOTION TO DISMISS with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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DEFENDANT BETTY CASON’S BRIEF IN SUPPORT
OF MOTION TO DISMISS

COMES NOW, Defendant Betty B. Cason, Probate Judge of Carroll
County, Georgia, through counsel and submits this brief in support of her motion
to dismiss this action as moot.

I. STATEMENT OF THE CASE

The instant action was filed on July 5, 2006. (Doc-1). At the same time, Plaintiff
filed a motion for a temporary restraining order. (Doc-2). A hearing on the motion
for a temporary restraining order was scheduled for July 11, 2006. At the hearing,
the Court ordered the Probate Court to process Plaintiff’s application for a

firearm's license. (Doc. 3) Subsequently, the Probate Court issued Plaintiff a temporary Georgia Firearms License (GFL) and accepted Plaintiff's application for a renewal of his GFL without requiring the disclosure of Plaintiff's Social Security Number. (Doc. ?, Attachment A). In addition, the Department of Public Safety, through Defendant Hitchens, revised the application form to make the disclosure of a Social Security Number optional and not mandatory. (Doc-14, Exhibit A).

II. STATEMENT OF RELEVANT FACTS

According to O.C.G.A. § 16-11-129(a), the Department of Public Safety furnishes application forms for firearms licenses. Applicants shall submit the application for a license to a judge of the probate court on the forms prescribed. Id.

Having previously completed the above mentioned form, Plaintiff James Camp possessed a GFL that was set to expire June 20, 2006. (Doc-6). Plaintiff applied for a renewal license on June 14, 2006 at which time he refused to provide or disclose his social security number. (Doc-1, Doc-6).

In the Complaint, Plaintiff requested declaratory and injunctive relief. (Doc-1) Specifically, Plaintiff requests that the Probate Judge issue Plaintiff a temporary GFL and process a renewal application for a GFL without requiring the disclosure of Plaintiff's social security number.

III. ARGUMENT AND CITATIONS OF AUTHORITY

The substantive basis of the complaint is the objection to the disclosure of the social security number on any portion of the application for a GFL. Plaintiff contends that the requirement that he provide this information violates the Privacy Act of 1974 and O.C.G.A. § 16-11-129.

Defendant Cason submits that this instant action is now moot. The mootness doctrine is jurisdictional with its roots in the case and controversy requirements. Aetna Life Insurance Co v. Haworth, 300U.S. 227 (1937; Liner v. Jafco, Inc., 375 U.S. 301 (1964)). An issue becomes moot and no longer justiciable where as a result of intervening circumstances there are no longer adverse parties with sufficient legal interests to maintain the litigation. The gist of Plaintiff's Complaint against Defendant Betty B. Cason sought to compel the processing of a temporary Georgia Firearms License (GFL) application as well as renewal application without disclosing Plaintiff's Social Security Number. In compliance with this Court's Order, the Probate Court of Carroll County did issue Plaintiff a temporary GFL and process his renewal application without requiring a Social Security Number. [See Attachment "A" GFL No. 2006-F-4235]. If one or more of the issues involved in an action become moot prior to or during the trial of the

action in the lower court, the trial court should refuse to make an adjudication of the moot issue(s) but if the mooted issues are controlling, the trial court should dismiss the actions.

Where the remaining non-mooted issues are sufficient, controlling, and adjudicable, the action may remain justiciable. Mootness has essentially two aspects: (1) when the issues presented no longer “live” or (2) the parties lack a cognizable interest in the outcome. United States Parole Comm’n v. Geraghty, 445 U.S. 388 (1980). Here, Plaintiff has received his requested relief from Defendant Betty Cason, and since any declaratory judgment is procedural only, it cannot be used to obtain a decision on moot question. For example, a suit for negative injunction to restrain workmen from observing union rules and not returning to work became moot when the job was in fact completed. Barker Painting Co. v. Local No. 734, 281 U.S. 462 (1930). An injunction suit to prevent the broadcasting of a football game became moot after passage of the day in question. Johnson-Kennedy Radio Corp. v. Chicago Bears Football Club, 95 F.2d 539 (7th Cir. 1938). Furthermore, an action challenging the constitutionality of a decision of a national convention credentials committee became moot after the convention had been held. O’Brien v. Brown, 409 U.S. 816 (1972).

In essence, the performance of the particular act sought to be enjoined will

moot the injunction issue where there is no likelihood that the act complained of will be repeated. As the Social Security Number is no longer required, the relief sought by Plaintiff is moot.

IV. CONCLUSION

As set forth herein, Plaintiff's request for an injunction and a declaratory judgment is moot. Defendant Cason respectfully request that the instant action be dismissed.

Respectfully submitted, this 25th day of July, 2006.

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