

**IN THE COURT OF APPEALS  
STATE OF GEORGIA**

GEORGIACARRY.ORG, INC., et al.,	)	
	)	
Appellants,	)	Case No.: A19A0862
	)	
v.	)	
	)	
Thomas C. Bordeaux, Jr.,	)	
	)	
Appellee.	)	

MOTION AGAINST APPELLANTS PURSUANT TO RULE 7(e)

Comes now the Honorable Thomas Bordeaux, Appellee, and files this Motion pursuant to Rule 7(e). This Motion pursuant to Rule 7(e) is being filed separate and distinctly from the Appellee’s brief in accordance with Rule 41(b).

/s/ R. Jonathan Hart  
**R. JONATHAN HART**  
State Bar No. 333692  
/s/ Jennifer R. Davenport  
**JENNIFER R. DAVENPORT**  
State Bar No. 330328  
ATTORNEYS FOR APPELLEE

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**MOTION AGAINST APPELLANTS PURSUANT TO RULE 7(e)**

Appellants Moore, Montgomery and GeorgiaCarry.Org, Inc. (herein “GCO”) filed suit against the Honorable Thomas Bordeaux, Jr. in his individual and official capacities, petitioning the Superior Court of Chatham County for a Writ of Mandamus. Judge Bordeaux answered and moved to dismiss the case. The Honorable James Bass, Jr, presiding in the Superior Court of Chatham County granted that motion to dismiss. As to Appellants Moore and Montgomery, the Court found the Petition for a Writ of Mandamus was moot. As to Plaintiff GCO, the Court held the organization lacked standing in accordance with the Supreme Court’s rulings outlined in Appellee’s brief. As to the claims of all three plaintiffs seeking a declaratory action, the trial court found the probate judge enjoyed sovereign immunity. The ruling of the trial court was dispositive of all issues raised.

**CITATIONS OF AUTHORITY AND ARGUMENT**

Rule 7(e) states no prosecution or frivolous appeal shall be filed with the Court of Appeals. Upon motion of a party or *sua sponte*, this Court may impose a fine not to exceed \$2500 for the filing of such a frivolous appeal. *Id.*

This Motion pursuant to Rule 7(e) is being filed separate and distinctly from the Appellee’s brief in accordance with Rule 41(b).

Stated summarily so as not to repeat the brief filed by Appellee both in this Court and with the trial court, the claims of GeorgiaCarry.org lack all merit in that the organization lacks standing to file an extraordinary writ and all declaratory actions against a probate judge are barred by the doctrines of sovereign and judicial immunity. *GeorgiaCarry.Org. v. James*, 298 Ga. 420 (2016); *GeorgiaCarry.Org, Inc. v Allen*, 299 Ga. 716 (2016); *Georgia Department of*

*Natural Resources et al v Center for a Sustainable Coast, Inc.*, 294 Ga. 593 (2014); *Lathrop v. Deal*, 301 Ga. 408 (2017); *Withers v. Schroeder*, 304 Ga. 394 (2018).

Given that GeorgiaCarry.Org and its counsel were the Plaintiffs and counsel of record in two of those controlling cases, and those rulings were made within the last three years, there can be no doubt this appeal is frivolous as to GeorgiaCarry.Org and its counsel.

As to Appellants Moore and Montgomery, seeking a declaratory action is likewise frivolous. The Supreme Court has ruled two times since 2014 that a declaratory action such as that prosecuted by Appellants cannot stand. In response to Appellee's presentation of these controlling decisions, Appellants cited to the trial court cases from 1887 and 1891. See *In re Ayers*, 123 U.S. 443 (1887); see also *Pennoyer v McConnaughy*, 140 U.S. 1 (1891). To this Court, Appellants cited *Moore v. Cranford*, 285 Ga.App. 666(2007), a case which was implicitly overturned by both *Latrop v. Deal* and *Withers v. Schoreder*, supra.

For these reasons, Judge Bordeaux respectfully requests that this Court fine Plaintiffs and their counsel in an amount not to exceed \$2500 in accordance with Rule 7(e) of this Court.

This submission does not exceed the word count limit imposed by Rule 24.

Respectfully submitted this 4<sup>th</sup> day of January, 2019.

/s/ R. Jonathan Hart  
**R. JONATHAN HART**  
State Bar No. 333692  
/s/ Jennifer R. Davenport  
**JENNIFER R. DAVENPORT**  
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the parties in the foregoing action with a copy of this document by placing the same in the United States mail with sufficient postage affixed thereto to assure delivery and properly addressed to:

John R. Monroe, Esq.  
156 Robert Jones Road  
Dawsonville, GA 30534

This 4<sup>th</sup> day of January, 2019.

/s/ Jennifer R. Davenport  
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Dawsonville, GA 30534

This 27<sup>TH</sup> day of December, 2018.

/s/ Jennifer R. Davenport  
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