

IN THE SUPERIOR COURT OF CHATHAM COUNTY

STATE OF GEORGIA

FILED IN OFFICE
2018 SEP -4 P 1:54
Malena Stokes
DEP. CLK. SUPERIOR CT
CHATHAM COUNTY, GA

GEORGIA CARRY.ORG; SHANE
MONTGOMERY and WILLIAM
THEODORE MOORE, III,

Petitioners,

vs.

Civil Action No.
SPCV18-00523-BA

THOMAS C. BORDEAUX, JR.
INDIVIDUALLY AND AS JUDGE OF
THE CHATHAM COUNTY PROBATE
COURT,

Respondents.

ORDER

The above styled matter is before the Court on a writ of mandamus. Having read and considered all the pleadings of the parties, the arguments made by counsel at the motion hearing on August 7, 2018 and the applicable law, the Court finds as follows:

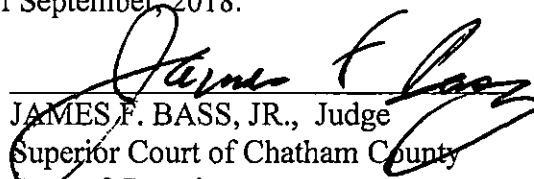
The Plaintiffs filed the instant action seeking to have the Court direct the Probate Court of Chatham County to issue gun permits for the individual named Petitioners. All the parties concede that gun permits have been issued for Shane Montgomery and Theodore Moore, III. Petitioner GeorgiaCarry.Org is not an authorized person to seek a writ of mandamus. See Georgiacarry.org, Inc. v. Allen, 299 Ga. 716, 791 S.E.2d 800 (2016). Since the permits have been issued, the Court finds that Petitioner's request for a writ of mandamus is MOOT.

Petitioners additionally seek a declaration that Defendant must process GWL applications

and issue GWL's within 35 days of the filing of the applications. However, "a suit against a state officer in his official capacity amounts to a suit against the State itself and the doctrine of sovereign immunity bars suits against the State to which the State has not consented." [cit omitted]. Lathrop v. Deal, 301 Ga. 408, 425, 801 S.E. 2d 867 (2017). "Sovereign immunity extends to suits for injunctive relief and it extends as well to suits for declaratory judgment." Id. Therefore, Petitioners request for declaratory judgment against Defendant as Judge of the Probate Court of Chatham County would be barred by the doctrine of sovereign immunity. As to their claim against Defendant Bordeaux in his individual capacity, the Court is not persuaded by this argument. As argued by the Defendants, "[o]ur courts have consistently held that judges are immune from liability in civil actions for acts performed in their judicial capacity." Smith v. Hancock, 150 Ga. App. 80, 256 S.E. 2d 627 (1979). Pursuant to O.C.G.A. §16-11-129, Judge Bordeaux issues a license in a judicial capacity, not an individual capacity. Therefore, the Court finds that Petitioners' claims against Defendant in an individual capacity is not proper.

WHEREFORE, having considered the arguments of the parties, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Petitioners prayer for a writ of mandamus is MOOT and their request for declaratory judgement against Defendant Bordeaux in his official capacity is barred by sovereign immunity and there is no claim against Defendant Bordeaux in his individual capacity and therefore, are DISMISSED.

SO ORDERED, this 7 day of September, 2018.


JAMES F. BASS, JR., Judge
Superior Court of Chatham County
State of Georgia

cc: All parties