



SUPREME COURT OF GEORGIA
Case No. S15A1619

Atlanta September 8, 2015

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

PHILLIP EVANS v. GWINNETT COUNTY PUBLIC SCHOOLS

From the Superior Court of Gwinnett County.

Appellant filed suit asserting, as amended, that appellee violated OCGA § 16-11-173, OCGA § 16-11-127.1, and his constitutional right to be free from unreasonable searches and seizures. As relief, he sought a declaration that licensed gun owners, like him, were exempt from Georgia's criminal law prohibiting the carrying of firearms into a school safety zone; an injunction prohibiting appellee from arresting or citing him for carrying a weapon in a school safety zone; and damages. The trial court granted appellee's motion to dismiss the complaint, holding that declaratory judgment is an improper mechanism to test whether a proposed plan of action violates a criminal statute, that it is improper to enjoin prosecution through an injunction; that the declaratory and injunctive relief claims were barred by sovereign immunity; and that the 42 USC § 1983 claim failed to state a claim for relief since the facts alleged in the complaint established that appellant had suffered no violation of his Fourth Amendment rights. Appellant filed a notice of appeal directed to this Court seeking to invoke its constitutional question jurisdiction on the grounds that the case involves construction of the federal constitution.

In Kroupa v. Cobb County, 262 Ga. 451, 452 (421 SE2d 283) (1992), however, this Court made clear "that jurisdiction of appeals raising claims of violations under 42 USC § 1983 generally lies in the Court of Appeals, because such claims ordinarily involve the application of unquestioned and unambiguous

provisions of the state or federal constitutions.” This appeal is no different. Further, appellant’s request for equitable relief is insufficient to invoke this Court’s jurisdiction over equity cases, because the court dismissed that request based solely on its resolution of an underlying legal issue. See Redfearn v. Huntcliff Homes Assn., Inc., 271 Ga. 745 (524 SE2d 464) (1999); Lee v. Green Land Co., Inc., 272 Ga. 107 (527 SE2d 204) (2000). As no other basis for this Court’s subject matter jurisdiction appears in the record, the appeal hereby is transferred to the Court of Appeals.

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk’s Office, Atlanta

I certify that the above is a true extract from the
Minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto
affixed the day and year last above written.

 , Chief Deputy Clerk