

Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

SUPREME COURT DOCKET NO. 2019-079

AUGUST TERM, 2019

John Madden* v. Town of New Haven	}	APPEALED FROM:
	}	
	}	Superior Court, Addison Unit,
	}	Civil Division
	}	
	}	DOCKET NO. 155-8-18 Ancv
		Trial Judge: Alison S. Arms

In the above-entitled cause, the Clerk will enter:

Plaintiff appeals pro se from the trial court’s summary judgment decision in favor of the Town of New Haven. We affirm.

Plaintiff filed a complaint against the town in August 2018, expressing concern that the town would be installing a natural-gas furnace in the town hall. Plaintiff stated that the town hall was used as a lunchroom for elementary school students and for other community activities and he alleged that the use of natural gas posed a threat to public safety. He asked the court to forbid the use of flammable/explosive natural gas in the town hall and/or elementary school. Plaintiff also moved for summary judgment, reiterating his concern about the dangers of natural gas. He identified himself as a town “resident, property owner and taxpayer.” The town filed a motion to dismiss, which the court construed as a cross-motion for summary judgment given the town’s reliance on material outside the pleadings.

The court concluded that plaintiff lacked standing to pursue his claim for declaratory relief. See Brod v. Agency of Nat. Res., 2007 VT 87, ¶ 2, 182 Vt. 234 (“Plaintiffs must demonstrate standing for a court to have jurisdiction over a petition for declaratory relief.” (quotation omitted)). “To satisfy the threshold requirement of standing,” the court explained, “a plaintiff must present a real—not merely theoretical—controversy involving the threat of actual injury to a protected legal interest rather than merely speculating about the impact of some generalized grievance.” Turner v. Shumlin, 2017 VT 2, ¶ 11, 204 Vt. 78 (quotation omitted). The court determined that plaintiff identified no actual injury here; he instead sought an improper advisory opinion about potential future harm that might result from the installation of a natural-gas furnace. The court also rejected any suggestion that plaintiff had standing by virtue of being a taxpayer, finding no support for such a theory. See Baird v. City of Burlington, 2016 VT 6, ¶ 21, 201 Vt. 112 (“Although taxpayer suits in Vermont are generally recognized as appropriate vehicles for seeking relief from official action, to have standing a plaintiff must still demonstrate that [he or] she has either sustained some direct loss or that municipal assets have been improperly wasted.” (quotation omitted)). The court thus granted summary judgment to the town. Plaintiff filed a motion for reconsideration, which was denied, and this appeal followed.

On appeal, plaintiff reiterates his concern about protecting the town hall and ensuring the safety of students. He states that he is a town resident, property owner, taxpayer, voter, and active community member. According to plaintiff, the legal basis for the relief he seeks is found in Chapter I, Article 1 of the Vermont Constitution.

We agree with the trial court that plaintiff lacks standing here. The court’s jurisdiction is limited to “actual cases or controversies.” Baird, 2016 VT 6, ¶ 13 (quotation omitted). Consequently, “to bring a case, a plaintiff must, at a minimum, show (1) injury in fact, (2) causation, and (3) redressability.” Id. (quotation and alteration omitted). In other words, there must be “an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical”; “a causal connection between the injury and the conduct complained of”; and “it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.” Turner, 2017 VT 2, ¶ 11 (quotation omitted). Plaintiff cannot satisfy these requirements. He merely speculates about potential harm that might arise from the installation of a natural-gas furnace. He fails to show any particularized injury specific to him. “A plaintiff who shows no particular injury that is attributable to the defendant has no standing to bring a suit.” Baird, 2016 VT 6, ¶ 13. It is not clear why plaintiff cites to Chapter I, Article 1 of the Vermont Constitution. To the extent that plaintiff relies on this provision as conferring standing on him, we reject that argument. We find no basis to disturb the court’s decision.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Beth Robinson, Associate Justice

Karen R. Carroll, Associate Justice