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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2019-2020

1180268

Jordan Mills and Bradley Braswell

v.

City of Opelika and American Traffic Solutions, Inc.

Appeal from Lee Circuit Court
(CV-17-900507)

BOLIN, Justice.

Jordan Mills and Bradley Braswell (hereinafter referred to collectively as "the plaintiffs") appeal from the Lee Circuit Court's dismissal of their declaratory-judgment action challenging the Opelika Red Light Safety Act and the

1180268

implementing City of Opelika ordinance providing for the automated photographic enforcement of red lights within the corporate limits of the City of Opelika ("the City") on constitutional and statutory grounds.

Facts and Procedural History

In 2011, the Alabama Legislature enacted Act No. 2011-524, Ala. Acts 2011, a local act known as the "Opelika Red Light Safety Act" ("the Act"), which authorized the automated photographic enforcement of traffic lights in the corporate limits of the City. The Act became effective on June 9, 2011. The legislature found in § 2(1) of the Act that "vehicles running red lights have been and are a dangerous problem in Opelika, Alabama." The legislature further found in § 2(2) of the Act that "automated traffic camera enforcement in a municipal area is a highly accurate method for detecting red light violations and is very effective in reducing the number of red light violations and decreasing the number of traffic accidents, deaths, and injuries." To that end, the legislature found that it "should adopt legislation implementing a program for automated photographic enforcement of traffic signal violations." § 2(4) of the Act. The legislature created in the

1180268

Act a "non-criminal category of law called a civil violation created and existing for the sole purpose of carrying out the terms" of the Act. The legislature made the penalty for violating the civil violation "the payment of a civil fine." § 3(3) of the Act.

On August 16, 2011, the City adopted Ordinance No. 112-11 ("the ordinance"), which provided for the automated photographic enforcement of red lights within the corporate limits of the City and the imposition of a civil penalty for those motorists whose vehicles were photographed running a red light. Section 16-300 of the ordinance states that the Opelika City Council found that there was a "significant risk to the health and safety of the community from drivers of vehicles that run red lights within the city"; that the running of a red light is a "public nuisance"; and that "[a]ccident data establishes that vehicles running red lights ... are a dangerous problem in the [City]." Section 16-301(9) of the ordinance classifies a traffic-control violation as a "civil violation" and defines a traffic-control violation as "any violation of Code of Ala. 1975, § 32-5A-31, § 32-5A-32, § 32-5A-35, or of any combination thereof, wherein a vehicle

1180268

proceeds into a signalized intersection at a time while the traffic-control signal for that vehicle's lane of travel is emitting a steady red signal." Section 16-302(b) imposes a \$60 civil penalty for a first or second violation of the ordinance within a 12-month period. Section 16-302(c) imposes a \$100 civil penalty for a third violation of the ordinance within a 12-month period.

The plaintiffs alleged that, in 2011, American Traffic Solutions, Inc. ("ATS"), approached the City regarding the installation of traffic-light-enforcement cameras within the corporate limits of the City. According to the plaintiffs, ATS offered to install, maintain, and monitor traffic-light-enforcement cameras at multiple intersections throughout the corporate limits of the City. The plaintiffs further asserted that ATS represented to the City that, when a vehicle is caught on camera going through a red light, ATS would electronically forward the resulting picture to a City official for review. Upon approval from the City, the plaintiffs alleged, ATS would then mail to the owner of the vehicle that ran the red light a ticket requesting payment of a fine. Finally, the plaintiffs asserted, ATS would remit a

1180268

portion of the fine recovered to the City and would retain the remainder for itself.

The plaintiffs alleged that the first automated traffic-light-enforcement cameras went into operation within the corporate limits of the City in February 2013 and that the first tickets were issued in May 2013. The plaintiffs each received a ticket after the automated traffic-light-enforcement cameras captured vehicles owned by them running red lights within the corporate limits of the City.¹ The plaintiffs state that they paid the civil fines resulting from the traffic-signal violations.

On October 4, 2017, the plaintiffs individually and on behalf of a putative class of individuals who had received notice of violation pursuant to the Act, sued the City and ATS (hereinafter referred to collectively as "the defendants"), seeking, among other things, a judgment declaring that the Act and the ordinance were unconstitutional and violative of Alabama law. Specifically, the plaintiffs sought a declaration that the Act violated §§ 89 and 105, Ala. Const.

¹Mills alleged that she received a notice of violation on May 17, 2017. Braswell alleged that he had received a notice of violation "within the past two years."

1180268

1901; that the ordinance violated §§ 11-45-1 and 32-5-1, Ala. Code 1975; and that the City has improperly delegated its police power to ATS under the ordinance. Additionally, the plaintiffs sought an order enjoining the City from ticketing individuals through the use of automatic traffic-light-enforcement cameras and a refund of all fines collected based on the use of the automatic traffic-light-enforcement cameras.

On December 12, 2017, the defendants moved the trial court, pursuant to Rule 12(b)(6), Ala. R. Civ. P., to dismiss the declaratory-judgment complaint against them, arguing, among other things, that no justiciable controversy existed between the parties. The defendants contended that the Act and the ordinance provide for both an adjudicative hearing before a hearing officer and a de novo appeal to the circuit court but that the plaintiffs paid the fines without challenging the Act and the ordinance in the manner prescribed by the Act and the ordinance. The defendants argued that the plaintiffs cannot now revive this matter in a collateral declaratory-judgment action because, they say, the issues between the parties have become nonjusticiable and moot.

1180268

On March 22, 2018, the plaintiffs filed an amended and restated complaint to add a count seeking a judgment declaring that the Act violates § 104(14) and (19) of the Alabama Constitution of 1901. (Off. Recomp.)

On April 12, 2018, the defendants moved the trial court to dismiss the amended and restated complaint, again arguing, among other things, that no justiciable controversy existed between the parties. On May 29, 2018, the plaintiffs filed a response in opposition to the defendants' motion to dismiss. On November 21, 2018, the trial court entered an order granting the defendants' motion to dismiss, finding, among other things, that it lacked subject-matter jurisdiction over the matter because no justiciable controversy existed between the parties after the plaintiffs paid the civil fines without contesting the notice of violations. The plaintiffs appealed.

Standard of Review

This Court has stated the appropriate standard of review for an appeal from an order of dismissal pursuant to Rule 12(b)(6) as follows:

"On appeal, a dismissal is not entitled to a presumption of correctness.... The appropriate standard of review under Rule 12(b)(6) [, Ala. R. Civ.

P.,] is whether, when the allegations of the complaint are viewed most strongly in the pleader's favor, it appears that the pleader could prove any set of circumstances that would entitle [the pleader] to relief. ... In making this determination, this Court does not consider whether the plaintiff will ultimately prevail, but only whether [the plaintiff] may possibly prevail. ... We note that a Rule 12(b)(6) dismissal is proper only when it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief.'"

Carr v. International Refining & Mfg. Co., 13 So. 3d 947, 952 (Ala. 2009) (quoting Nance v. Matthews, 622 So. 2d 297, 299 (Ala. 1993)). Further,

"[f]or a declaratory-judgment action to withstand a motion to dismiss there must be a bona fide justiciable controversy that should be settled. Anonymous v. Anonymous, 472 So. 2d 640, 641 (Ala. Civ. App. 1984); Smith v. Alabama Dry Dock & Shipbuilding Co., 293 Ala. 644, 309 So. 2d 424, 427 (1975). The test for the sufficiency of a complaint seeking a declaratory judgment is whether the pleader is entitled to a declaration of rights at all, not whether the pleader will prevail in the declaratory-judgment action. Anonymous, 472 So. 2d at 641.

"The lack of a justiciable controversy may be raised by either a motion to dismiss or a motion for a summary judgment. Smith, [293 Ala. at 649,] 309 So. 2d at 427. See also Rule 12, Ala. R. Civ.

P.; Rule 56, Ala. R. Civ. P. However, a motion to dismiss is rarely appropriate in a declaratory-judgment action. Wallace v. Burleson, 361 So. 2d 554, 555 (Ala. 1978). If there is a justiciable controversy at the commencement of the declaratory-judgment action, the motion to dismiss should be overruled and a declaration of rights made only after an answer has been submitted and evidence has been presented. Anonymous, 472 So. 2d at 641. However, if there is not a justiciable controversy, a motion to dismiss for failure to state a claim should be granted. Curjel v. Ash, 263 Ala. 585, 83 So. 2d 293, 296 (1955).'

"Harper v. Brown, Stagner, Richardson, Inc., 873 So. 2d 220, 223 (Ala. 2003)."

Muhammad v. Ford, 986 So. 2d 1158, 1161-62 (Ala. 2007).

Analysis

The plaintiffs argue on appeal that a justiciable controversy exists between the parties because they challenged the Act and the ordinance by way of a declaratory-judgment action brought pursuant to § 6-6-223, Ala. Code 1975, and sought a return of the fines recovered by the City pursuant to the allegedly invalid Act and ordinance. The plaintiffs contend that a declaratory-judgment action is the proper vehicle for challenging the Act and the ordinance. See Alabama Disposal Solutions-Landfill, L.L.C. v. Town of

1180268

Lowndesboro, 837 So. 2d 292, 298 (Ala. Civ. App. 2002) ("One of the most useful fields of operation for declaratory-judgment statutes is to allow courts to settle questions regarding the validity of statutes so that the perils of proceeding under void enactments are thereby avoided."). The plaintiffs further contend that the payment of the fines does not moot the controversy because, they say, it falls within one of the two exceptions to the mootness doctrine, i.e., the question presented is capable of arising again.

The defendants argue that no justiciable controversy exists between the parties because the plaintiffs voluntarily paid the fines without first challenging the notices of violations issued pursuant to the Act and the ordinance in accordance with the procedures provided for in the Act and the ordinance. The defendants contend that the plaintiffs cannot now use this declaratory-judgment action as a substitute for an appeal to collaterally attack the Act and the ordinance.

Section 6 of the Act provides:

"(a) The Opelika Municipal Court is vested with the power and jurisdiction to hear and adjudicate the civil violations provided for in this act, and to issue orders imposing the civil fines and costs set out in this act.

1180268

"(b) A person who receives a violation may contest the imposition of the civil fine by submitting a request for a hearing on the adjudication of the civil violation, in writing, within 15 days of the 10th day after the date the notice of violation is mailed. Upon receipt of a timely request, the city shall notify the person of the date and time of the adjudicative hearing.

"(c) Failure to pay a civil penalty or to contest liability in a timely manner is an admission of liability in the full amount of the civil fine assessed in the notice of violation."

Section 7(c) of the Act provides:

"A person who is found liable after an adjudicative hearing may appeal that finding of civil liability to the Circuit Court of Lee County, Alabama, by filing a notice of appeal with the clerk of the municipal court. The notice of appeal must be filed not later than the 14th day after the date on which the municipal court judge entered the finding of civil liability. The filing of a notice of appeal shall stay the enforcement of the civil fine penalty. An appeal shall be determined by the circuit court by trial de novo."

Section 16-303(a) of the ordinance provides that the "municipal court of the city is responsible for the enforcement and administration" of the ordinance. Section 16-304(a) of the ordinance provides:

"A person who receives a notice of violation may contest the imposition of the civil penalty by submitting a request for an adjudicat[ive] hearing of the civil penalty, in writing, within 15 days of the tenth day after the date of the notice of violation is mailed. Upon receipt of a timely

1180268

request, the [municipal court] shall notify the person of the date and time of the municipal court hearing on the adjudication. The adjudicative hearing shall be held before a municipal judge."

Section 16-304(b) of the ordinance provides that the failure to contest liability in a timely manner is an admission of liability in the full amount of the civil penalty assessed. Section 16-306(a) of the ordinance provides:

"A person who is found liable after an adjudicative hearing in municipal court may appeal that finding of civil liability to the Circuit Court of Lee County, Alabama, by filing a notice of appeal with the clerk of the municipal court. The notice of appeal must be filed not later than the fourteenth day after the date on which the municipal judge entered the finding of civil liability. Unless the person, on or before the filing of the notice of appeal, posts a bond in the amount of the civil penalty and any late fees, an appeal does not stay the enforcement of the civil penalty. An appeal shall be determined by the circuit court by trial de novo."

It is undisputed that the plaintiffs did not seek relief from the notices of violations pursuant to the judicial procedures provided for in the Act and the ordinance.

Section 6-6-223, Ala. Code 1975, provides:

"Any person ... whose rights, status, or other legal relations are affected by a statute [or] municipal ordinance ... may have determined any question of construction or validity arising under the ... statute [or] ordinance ... and obtain a

declaration of rights, status, or other legal relations thereunder."

This Court has stated:

" "There must be a bona fide justiciable controversy in order to grant declaratory relief. If no justiciable controversy exists when the suit is commenced, then the court lacks jurisdiction." Durham v. Community Bank of Marshall County, 584 So. 2d 834, 835 (Ala. 1991) (citations omitted). Where "the trial court ha[s] no subject-matter jurisdiction, [it has] no alternative but to dismiss the action." State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1029 (Ala. 1999). "Any other action taken by a court lacking subject matter jurisdiction is null and void." Id. (quoting Beach v. Director of Revenue, 934 S.W.2d 315, 318 (Mo. Ct. App. 1996))....

"This Court has recognized that a purpose of the Declaratory Judgment Act, codified at §§ 6-6-220 through -232, Ala. Code 1975, is "to enable parties between whom an actual controversy exists or those between whom litigation is inevitable to have the issues speedily determined when a speedy determination would prevent unnecessary injury caused by the delay of ordinary judicial proceedings." Harper v. Brown, Stagner, Richardson, Inc., 873 So. 2d 220, 224 (Ala. 2003).... Further, "[w]e have recognized that a justiciable controversy is one that is "definite and concrete, touching the legal relations of the parties in adverse legal interest, and it must be a real and substantial controversy admitting of specific relief through a [judgment]." MacKenzie v. First

Alabama Bank, 598 So. 2d 1367, 1370 (Ala. 1992) (quoting Copeland v. Jefferson County, 284 Ala. 558, 561, 226 So. 2d 385, 387 (1969))." Harper, 873 So. 2d at 224.... Thus, the Declaratory Judgment Act does not ""empower courts to decide ... abstract propositions, or to give advisory opinions, however convenient it might be to have these questions decided for the government of future cases."" Bruner v. Geneva County Forestry Dep't, 865 So. 2d 1167, 1175 (Ala. 2003) (quoting Stamps v. Jefferson County Bd. of Educ., 642 So. 2d 941, 944 (Ala. 1994), quoting in turn Town of Warrior v. Blaylock, 275 Ala. 113, 114, 152 So. 2d 661, 662 (1963))....

"In determining whether [the plaintiffs'] complaint alleges a bona fide justiciable controversy, we "must accept the allegations of the complaint as true," and "must also view the allegations of the complaint most strongly in [the plaintiffs'] favor." Harper, 873 So. 2d at 223.'

"Gulf Beach Hotel, Inc. v. State ex rel. Whetstone, 935 So. 2d 1177, 1182-83 (Ala. 2006)."

Privilege Underwriters Reciprocal Exch. v. Grayson, 226 So. 3d 653, 657 (Ala. 2016). "It is settled that an action for declaratory judgment cannot be used as a substitute for appeal." Ex parte Houston Cty. Bd. of Educ., 562 So. 2d 513, 514 (Ala. 1990) (citing Sparks v. Brock & Blevins, Inc., 274 Ala. 147, 145 So. 2d 844 (1962)). Further,

1180268

""Alabama courts do not give opinions in which there is no longer a justiciable controversy; yet, Alabama has recognized two exceptions to the mootness doctrine: questions of great public interest and questions that are likely of repetition of the situation.""

"Underwood v. Alabama State Bd. of Educ., 39 So. 3d 120, 127 (Ala. 2009)."

Moore v. Alabama Judicial Inquiry Comm'n, 234 So. 3d 458, 485 (Ala. 2017).

A detailed discussion of the issue presented is not required in this case, because this Court today, in Woodgett v. City of Midfield, [Ms. 1180051, May 1, 2020] ___ So. 3d ___ (Ala. 2020), an opinion released simultaneously with this opinion, considered the very question regarding the issue of justiciability as presented by this appeal. City of Midfield involved identical facts, as well as a virtually identical local act and city ordinance as are present in this case. In City of Midfield, the plaintiffs received notices of violations after automated traffic-light-enforcement cameras captured their vehicles running red lights within the corporate limits of the City of Midfield. Rather than challenging the notices of violations or the Midfield local act and ordinance itself pursuant to the procedures set forth

1180268

in the Midfield act and ordinance for doing so, the Midfield plaintiffs simply accepted liability under the Midfield act and ordinance by paying their respective fines. Subsequently, the Midfield plaintiffs filed a declaratory-judgment action challenging the Midfield act and ordinance, which the trial court dismissed.

This Court noted in City of Midfield that the legislature had vested the municipal court with jurisdiction to adjudicate contested notices of violations under the Midfield act and ordinance within a set of procedures that provided for an adjudicative hearing in the municipal court and an appeal of that court's ruling to the circuit court for a trial de novo. The plaintiffs in that case, however, chose to accept liability under the Midfield act and ordinance by simply paying the fines rather than challenging the legitimacy of the Midfield act and ordinance in the manner provided for in the Midfield act and ordinance. This Court concluded in City of Midfield that, once the Midfield plaintiffs accepted liability under the Midfield act and ordinance without challenging the notices of violations, a justiciable controversy no longer existed between the parties

1180268

because nothing remained to be settled or determined. We further determined that the Midfield plaintiffs could not maintain the declaratory-judgment action in that case, filed well after the notices of violations had been issued and paid, as a substitute for appeal to challenge the Midfield act and ordinance after failing to raise such challenge pursuant to the procedures for doing so set forth by the legislature in the Midfield act and ordinance. Finally, this Court concluded that, because no justiciable controversy existed between the parties at the time the complaint for declaratory relief was filed, the trial court was without subject-jurisdiction to consider the matter. City of Midfield, supra.

Based on this Court's holding in City of Midfield, supra, we conclude that no justiciable controversy existed between the parties here once the plaintiffs paid the notices of violations issued pursuant to the Act and the ordinance without first challenging the legitimacy of the notices of violations in accordance with the procedures set forth in the Act and the ordinance. Because no justiciable controversy existed between the parties, the trial court was without

1180268

subject-matter jurisdiction to consider the declaratory-judgment action filed by the plaintiffs.

The plaintiffs, however, argue that they are not precluded from filing this declaratory-judgment action simply because they did not ask for a hearing in the municipal court because, they say, the "remedy of declaratory relief was intended to be alternative and not dependent upon the absence of another adequate remedy." City of Dothan v. Eighty-Four West, Inc., 738 So. 2d 903, 908-09 (Ala. 1999). That exact argument was rejected by this Court in City of Midfield, supra. Although the plaintiffs are correct in stating that a declaratory-judgment action is intended as an alternative remedy that is not dependent upon the absence of another remedy, that argument simply ignores the effect that the payment of the fines and the plaintiffs' acceptance of liability under the Act and the ordinance, without challenging the Act and the ordinance pursuant to the procedures set forth therein, had on their action. Once the plaintiffs accepted liability under the Act and the ordinance by paying the fines without challenging the Act and the ordinance, no actual controversy existed between the parties.

1180268

The matter of the notices of violations was settled and became moot upon payment of the fines. Because a justiciable controversy did not exist between the parties, the trial court had no jurisdiction over the plaintiffs' subsequently filed declaratory-judgment action challenging the Act and the ordinance.

Finally, the plaintiffs argue that this case falls within the "public-interest" exception to the mootness doctrine. An exception to the mootness doctrine exists for cases "'involving issues of great public importance, which may recur in the future.'" Chapman v. Gooden, 974 So. 2d 972, 989 (Ala. 2007) (quoting 1A C.J.S. Actions § 81 (2005)). The Court has explained the

"'"criteria for applying the public interest exception to the mootness doctrine'" as including (1) 'the public nature of the question,' (2) 'the desirability of an authoritative determination for the purpose of guiding public officers,' and (3) 'the likelihood that the question will generally recur.'"

Barber v. Cornerstone Cmty. Outreach, Inc., 42 So. 3d 65, 75 (Ala. 2009) (quoting Chapman, 974 So. at 989). This "'exception is construed narrowly ... and a clear showing of each criterion is required to bring a case within its

1180268

terms.'" Chapman, 974 So. 2d at 989 (quoting In re Adoption of Walgreen, 186 Ill. 2d 362, 365, 238 Ill. Dec. 124, 126, 710 N.E.2d 1226, 1227 (1999)).

Relying upon this Court's decision in Cornerstone, supra, the plaintiffs argue that this case presents a question of great public interest and importance that is in need of an authoritative determination by this Court. We disagree. In Cornerstone, Governor Bob Riley had issued an executive order creating the Governor's Task Force on Illegal Gambling. The stated purpose of the Task Force was "promoting and supporting uniform statewide enforcement of Alabama's anti-gambling laws and to carry out the Alabama Constitution's strong public policy against lottery schemes and illegal gambling." 42 So. 3d at 68. The order also created a special prosecutor to serve as the commander of the Task Force. The special prosecutor was empowered with "statewide jurisdiction" to "conduct investigations, attend any regular, adjourned or special session of any circuit court ... for the investigation of or the prosecution of any criminal case or the prosecution or defense of any case related to gambling activity in the State of Alabama." 42 So.

1180268

3d at 68. Governor Riley appointed former Jefferson County District Attorney David Barber as the Task Force commander.

Cornerstone Community Outreach, Inc., obtained a license from the Town of White Hall in Lowndes County to operate a bingo-gaming facility, which was known as the White Hall Entertainment Center. The Entertainment Center contained several hundred electronic gaming machines that were played regularly by hundreds of customers every day.

On March 19, 2009, the Task Force, pursuant to its mandate, executed a search warrant on the Entertainment Center and confiscated electronic gaming machines, the servers to which those machines were attached, over \$500,000 in gaming proceeds, and various records. That same day, Cornerstone sued Governor Riley, in his official capacity, and Barber, in his official capacity as the Task Force commander (hereinafter referred to collectively as "the Riley defendants"), seeking, among other things, a declaratory judgment and preliminary and permanent injunctive relief regarding the seizure of the electronic gaming machines by the Task Force. Specifically, Cornerstone requested a judgment declaring that its bingo operation at the

1180268

Entertainment Center was permitted under Amendment No. 674 (Local Amendments, Lowndes County § 3), Ala. Const. 1901, and whether the electronic gaming machines seized by the Task Force constituted illegal "slot machines" under § 13A-12-27, Ala. Code 1975. Cornerstone requested a preliminary injunction restraining the Task Force from any further interference with its operation during the pendency of the action and directing the Task Force to return all the seized machines, servers, and records.

Following a hearing, the trial court entered an order granting Cornerstone's request for a preliminary injunction, ordering the Riley defendants to return all property seized during the March 19, 2009, raid, and ordering them to refrain from interfering with Cornerstone's operation at the Entertainment Center during the pendency of the action. The Riley defendants appealed the trial court's issuance of the preliminary injunction.

On April 21, 2009, the Task Force instituted a civil-forfeiture proceeding in the Lowndes Circuit Court seeking forfeiture of all items seized during the March 19, 2009, raid on the Entertainment Center. On May 26, 2009, the

1180268

Riley defendants filed their brief in their appeals of the trial court's preliminary injunction.

On May 29, 2009, Cornerstone filed a motion asking this Court to dissolve the preliminary injunction and to dismiss the appeals, alleging that the Task Force's filing of the civil-forfeiture action, along with the fact that the Task Force had not further interfered with Cornerstone's operation at the Entertainment Center, rendered the preliminary injunction unnecessary and the appeals moot. The Riley defendants filed a response in opposition to the motion to dismiss the appeals, arguing that the civil-forfeiture action did not moot the appeals.

This Court concluded on appeal that the willingness of Cornerstone to cease its operations at the Entertainment Center did not render moot appellate review of the preliminary injunction entered against the Riley defendants because Cornerstone did not meet its heavy burden of showing that it is ""absolutely clear that the alleged wrongful behavior could not reasonably be expected to recur."" Cornerstone, 42 So. 3d at 72 (quoting Adarand Constructors, Inc. v. Slater, 528 U.S. 216, 222 (2000), quoting in turn

1180268

United States v. Concentrated Phosphate Exp. Ass'n, 393 U.S. 199, 203 (1968)). The Court also stated that a remand of the case to the trial court for a rescission of the order entering the preliminary injunction would not moot the case when the parties had a "concrete stake" in the outcome of the case and the legal questions presented on appeal; the Entertainment Center was still operating; and the Task Force had made no commitment to refrain from any further raids and seizures. Cornerstone, 42 So. 3d at 74-76.

After concluding that the case on appeal was not moot, this Court went on to state that, "even if the case ... could be deemed moot," 42 So. 3d at 75, it would fall within the recognized public-interest exception to the mootness doctrine. In reaching its conclusion that the public-interest-exception criteria were satisfied, this Court noted the Riley defendants' contention, regarding the "public-nature" criteria of the exception, that a cursory review of the newspapers across the State of Alabama demonstrated that the legality of electronic bingo played on slot machines was a pressing issue of great public concern across Alabama. As for the desirability of an authoritative determination by

1180268

this Court, this Court took into consideration the Riley defendants' argument that an authoritative determination was needed because "[d]espite this Court's clear, emphatic, and repeated disapproval of every artful attempt to circumvent Alabama's anti-gambling law, see, e.g., Barber v. Jefferson County Racing Assoc., 960 So. 2d 599, 614 (Ala. 2016), gambling interests, as demonstrated by this case, continue to flout those laws.'" 42 So. 3d at 76. Finally, as for the likelihood that the issue would generally recur, this Court again noted the Riley defendants' argument that gambling interests would continue to operate electronic gaming machines in more venues across the State and that it was inevitable that the issue of the legality of those gaming machines would return to the Court. 42 So. 3d at 77.

Initially, we note that that portion of the opinion in Cornerstone relied upon by the plaintiffs to support their contention that the public-interest exception to the mootness doctrine is applicable to this case is dicta and not binding upon this Court. See Ex parte Patton, 77 So. 3d 591 (Ala. 2011). The discussion regarding the public-interest exception in Cornerstone was not essential to our resolution of that

1180268

case because this Court had determined that the issues were not moot. Ex parte Williams, 838 So. 2d 1028 (Ala. 2002). Further, the public nature of the question presented in Cornerstone differs greatly from the public nature of the question presented in this case. The question of gambling in this State, particularly electronic bingo, had been a hotly debated ongoing issue throughout the State for a number of years. It was regularly covered by various media outlets throughout the State, became a campaign talking point for those seeking office, and was the subject of a number of court cases. As mentioned in Cornerstone, Governor Riley created a Task Force, empowering it with "statewide jurisdiction" to conduct investigations and to attend any regular or special session of any circuit court in the State for the investigation of or the prosecution of any criminal case related to ongoing gambling activity in the State.

By contrast, the public nature of the question here -- the legality of automated traffic-enforcement cameras -- has not generated the public concern generated by electronic gaming. There has been no task force with statewide jurisdiction formed to investigate the question of automated

1180268

traffic-enforcement cameras. The plaintiffs have demonstrated no ongoing public debate in this State regarding the question of automated traffic-enforcement cameras that rises to the level of the debate over electronic gaming. Although there are several pending cases involving the legality of the automated traffic-enforcement cameras, the number of municipalities actually using such cameras is relatively small and does not present an important question to the "whole public." Byrd v. Sorrells, 265 Ala. 589, 593, 93 So. 2d 146, 149 (1957) (holding that the public-interest exception is applicable when the "questions are very important to the whole public"). Accordingly, construing this exception narrowly, as we must, we conclude that the plaintiffs have failed to establish that the public nature of the question of the legality of automated traffic-enforcement cameras is such that it presents a question of great public importance to the whole public.

Because we have determined that the plaintiffs have failed to establish the public-nature criterion of the public-interest exception, we pretermitt discussion of the remaining criteria.

Conclusion

Because we have concluded that no justiciable controversy exists between the parties in this case, the trial court lacked subject-matter jurisdiction and properly granted the defendants' motion to dismiss the declaratory-judgment action. "'Lacking subject-matter jurisdiction [a court] may take no action other than to exercise its power to dismiss the action. ... Any other action ... is null and void.'" State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1029 (Ala. 1999) (quoting Beach v. Director of Revenue, 934 S.W.2d 315, 318 (Mo. Ct. App. 1996)). Accordingly, the order dismissing the plaintiffs' complaint is affirmed.

AFFIRMED.

Bryan, Sellers, and Stewart, JJ., concur.

Parker, C.J., and Mendheim, J., concur in the result.

Shaw, Wise, and Mitchell, JJ., recuse themselves.