

IN THE NINTH JUDICIAL DISTRICT COURT
TETON COUNTY, STATE OF WYOMING

FILED
9:25 Am
JUL 30 2024
DISTRICT COURT
9TH JUDICIAL DISTRICT
TETON COUNTY WYOMING

PROTECT OUR WATER JACKSON HOLE,
a Wyoming nonprofit corporation,

Plaintiff,

v.

Civil No. 2024-CV-0019048

WYOMING DEPARTMENT OF
ENVIRONMENTAL QUALITY and
BASECAMP TETON WY SPV, a Wyoming
limited liability Company,

Defendants.

ORDER GRANTING MOTIONS TO DISMISS

The Court, having reviewed the Complaint, Defendants’ Motions to Dismiss and memorandums in support, Plaintiff’s Responses, Defendants’ Replies, and the various pleadings, and upon consideration of the Parties’ oral arguments both for and against the Motions to Dismiss during a hearing held on July 11, 2024, finds that Defendants’ Motions to Dismiss are well-taken and should be granted. The Court verbally granted Defendants’ Motions to Dismiss at the conclusion of the hearing and verbally provided a very short summary of some of its reasons for granting the Defendants’ Motions to Dismiss. This Order summarizes some, but not all of the Court’s reasoning in granting the Motions to Dismiss, which the Court understands will be subject to *de novo* review upon appeal. *Foltz v. Oblasser*, 2020 WY 51, ¶ 11.

STANDING

A fundamental principle of law is that to bring a claim in our courts, a person or entity must have a “tangible interest” or “personal stake” in the case. *Forbes v. Forbes*, 2022 WY 59, ¶ 35.

This “tangible interest” or “personal stake” requirement means that only those who can claim their legal interests are actually harmed by a defendant may take that defendant to court. Disagreement or disapproval of another’s actions, even if strongly held and shared by others, without harm to a legally recognized interest, is insufficient to invoke participation of the judicial branch. Such disagreement or disapproval appropriately is a consideration for the political branches of government, but not the judicial branch.

As the United States Supreme Court has explained, the requirement that [a plaintiff] must show actual injury derives ultimately from the doctrine of standing, a constitutional principle that prevents courts of law from undertaking tasks assigned to the political branches. It is the role of courts to provide relief to claimants, in individual or class actions, who have suffered, or will imminently suffer, actual harm; it is not the role of courts, but that of the political branches, to shape the institutions of government in such fashion as to comply with the laws and the Constitution.

Allred v. Bebout, 2018 WY 8, ¶ 30 (quoting *Lewis v. Casey*, 518 U.S. 343, 349 (1996)).

The “tangible interest,” “personal stake” and “actual injury” requirements of standing mean that citizens, even if well-intentioned and with strong opinions, do not have standing to seek general enforcement of laws on behalf of the state or community. Rather, individuals or groups may seek judicial remedies only if their claimed injury to a legal right “exceed[s] the general interest in community good shared in common with all citizens.” *Moose Hollow Holdings, LLC v. Teton County*, 2017 WY 74, ¶ 21 (citations omitted).

ORDER

The Parties prepared and submitted an order approved as to form. This paragraph is separate from what the Parties prepared and approved, but reflects the Order of the Court. Upon review, the Court finds that it gave the wrong impression to the Parties. The Parties, particularly the Plaintiff, apparently thought the Court’s decision was a narrow one, based only on Plaintiff’s

inability to plead or prove damages based on what the Teton County Board of County Commissioners might decide if the permit issue were submitted to them. The Court's ruling granting the motions to dismiss was not so narrow. The Court found merit in each of the arguments presented by Defendants. Attempting to help expedite this matter, the Court presented a very abbreviated verbal analysis of one issue. That verbal analysis does not indicate that the Court disagreed with the other arguments of Defendants. To the contrary, the Court agrees with each of the arguments made by Defendants. In particular, the Court emphasizes that Plaintiffs have pled nothing indicating their personal interests are different from that of the general public. Such emphasis, however, does not exclude the other arguments made by Defendants. The remaining portion of this order was drafted and approved as to form by the Parties. Once again, this Court emphasizes that its analysis of each of the arguments of Defendants for dismissal is of no consequence, as appellate review will be de novo.

Here, the Court relies on *Allred, infra*. for its determination that Plaintiff does not have standing. In *Allred*, a contractor sought to challenge the bidding process used by the Capitol Construction Commission and claimed bids should have been heard by a different group. The contractor, however, was unable to show that the results of that bidding would have been different. In *Allred*, the Supreme Court said that the harm alleged was not the kind of significant tangible harm that creates standing; rather, it was a political kind of issue.

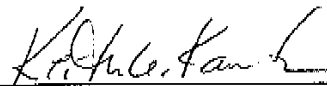
This case is analogous because Plaintiff has not alleged the kind of harm that would give it standing. Plaintiff's first request for relief asks this Court to determine the language of the Environmental Quality Act, specifically Wyoming Statute § 35-11-304, and declare that when the Department of Environmental Quality delegates authority to issue small wastewater permits pursuant to Wyoming Statute § 35-11-304, the Department has no authority to issue small

wastewater permits within that jurisdiction. However, there is no indication that Teton County would have issued the permit or would have provided more stringent requirements.

Plaintiff's second request for declaratory relief asks the Court to determine the ambiguous language in the Delegation Agreement. Plaintiff's third request for declaratory relief asks this Court to declare that the language of the Delegation Agreement gives sole authority to Teton County to issue small wastewater permits within Teton County's boundaries. Both Plaintiff's second and third claims are contractual in nature. Wyoming's Uniform Declaratory Judgments Act, Wyoming Statute § 1-37-101 *et. seq.* specifies a standing requirement when a plaintiff seeks declaratory relief about a contract. It requires that a plaintiff be "interested" under the contract. Wyo. Stat. § 1-37-103. When applying the term "interested" to declaratory relief actions involving contracts, the Wyoming Supreme Court has stated "it is well settled that in no case can a stranger to the contract maintain an action upon it, or for the breach of it, save in the exceptional cases (of third party beneficiary situations)." *Mountain West Farm Bureau Ins. v. Hallmark Ins.*, 561 P.2d 706, 710 (Wyo. 1977) (quoting *McCarteney v. Wyoming National Bank*, 1 Wyo. 386, 391 (1877)). Because Plaintiff is not a party to the Delegation Agreement and has no privity of contract under the Delegation Agreement, Plaintiff has no standing to enforce the Delegation Agreement or obtain a declaratory judgment interpreting its language.

It is hereby ordered that Defendants' Motions to Dismiss are granted, and Plaintiff's Complaint is dismissed.

Dated July 30, 2024


Justice Keith G. Kautz, ret.

CERTIFICATE OF SERVICE
This is to certify that a copy of the foregoing was served by mail/fax upon the following persons at their last known address this 30th day of July 2024:
J. Graham via Fax, A. Bardsley via fax
K. Snow, T. Koon, B. Berling via fax
C. Hawk via fax
BY [Signature]