

Court of Appeals, State of Michigan

ORDER

Terry Ellison v Saginaw County Prosecuting Attorney

Docket No. 303908

LC No. 11-011835-AW

Michael J. Kelly
Presiding Judge

William C. Whitbeck

Amy Ronayne Krause
Judges

The Court orders that the motion for leave to file a reply to the answer to the motion to dismiss is GRANTED.

The motion to dismiss pursuant to MCR 7.211(C)(2) is GRANTED for the reason that the appeal is moot. This Court cannot grant practical legal relief to plaintiff because defendant has completed the prosecution of one juvenile for the relevant incident and has firmly expressed its decision not to prosecute the other relevant juvenile. Thus, there is no practical legal relief that this Court could now grant as to this matter. See *General Motors Corp v Dep't of Treasury*, 290 Mich App 355, 386; ___ NW2d ___ (2010) (issue moot where event has occurred rendering it impossible for court to grant relief or if judgment cannot “for any reason” have a “practical legal effect” on existing controversy). In this regard, any declaration from this Court of abstract legal error by the lower court in its handling of plaintiff's request for a writ of mandamus would grant him no practical legal relief. See *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998) (case is moot “when it presents only abstract questions of law that do not rest upon existing facts or rights”). Further, this appeal cannot reasonably be considered to involve an issue of public significance that is likely to recur yet evade judicial review. *Detroit v Ambassador Bridge Co*, 481 Mich 29, 50; 748 NW2d 221 (2008). The myriad circumstances in which a party might allege that a prosecutor's office has not timely made a charging decision cannot reasonably be considered to constitute a single issue that is likely to recur. We note that the holding in *Bay City v Bay County Treasurer*, ___ Mich App ___; ___ NW2d (Docket No. 294556, issued April 5, 2011), p 4, that an offer by a party to settle a case pending on appeal even by offering the complete relief sought by the opposing party does not render the case moot if the opposing party declines to agree to the settlement is inapposite and does not preclude recognizing the mootness of this appeal.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

NOV 07 2011

Date


Chief Clerk