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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

PATRICK SHERLOCK,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 14 CH 19948
)	
THE STATE BOARD OF ELECTIONS,)	Honorable
)	Moshe Jacobius,
Defendant-Appellee.)	Judge, presiding.
)	

JUSTICE COBBS delivered the judgment of the court.
Presiding Justice McBride and Justice Ellis concurred in the judgment.

ORDER

¶ 1 *Held:* Plaintiff could not appeal from the trial court's order resolving all justiciable matters in plaintiff's favor.

¶ 2 Cook County Circuit Judge Patrick Sherlock, plaintiff, sought an order against the State Board of Elections (Board) declaring subsection 2f(e) of the Circuit Courts Act (Act) (705 ILCS 35/2f(e) (West 2014)) unconstitutional because it required him to retain residence in the subcircuit from which he was elected. In its answer, the Board stated that subsection 2f(e) did not apply to plaintiff and, based upon this assertion, the trial court entered an order

declaring plaintiff was free to move. On appeal, plaintiff contends that the trial court erroneously refused to address the constitutionality of subsection 2f(e). We affirm.

¶ 3

BACKGROUND

¶ 4

Plaintiff filed a complaint for declaratory relief against the Board seeking a judgment declaring subsection 2f(e) unconstitutional and he amended the complaint on January 29, 2015. In the amended complaint, plaintiff alleged that he was a resident judge of Cook County. After being appointed to fill a vacancy, plaintiff was elected from a subcircuit and subsequently won a circuit-wide retention. The amended complaint also asserted that plaintiff had standing because he maintained his residency as a registered voter in the relevant subcircuit, but he intended to sell his home and move to a different subcircuit. Plaintiff feared that this move will cause him to "los[e] his seat" pursuant to subsection 2f(e). He attached an opinion letter that the Attorney General of Illinois wrote in 2006. In the letter, the Attorney General stated that she believed a resident judge was permitted to move outside of his or her initial subcircuit after winning circuit-wide retention because the language of section 2f(e) indicating otherwise was unconstitutional.

¶ 5

In its answer to plaintiff's complaint, the Board, represented by the Attorney General, denied that subsection 2f(e) was unconstitutional. It asserted, "Because Plaintiff ran for and won a circuit-wide retention election while residing in the subcircuit in which he was initially elected, subsection 2f(e) does not apply to him and he is free to move."

¶ 6

In a hearing on March 26, 2015, the trial court indicated that it had read the pleadings and suggested that everything had been resolved regarding plaintiff's right to move. Plaintiff's counsel agreed, but noted, "[T]he only other issue was, of course, at the end of his six years he runs again, and I just want to be sure that when he runs again it doesn't apply to him." The

trial court stated that there was no case or controversy as to a future retention, and noted that it would not issue an advisory opinion based upon a speculative run for retention.

¶ 7 In a written order on April 22, 2015, the trial court ruled that "Based on the allegations contained in Plaintiff's complaint and the Defendant's answer, Plaintiff won a circuit-wide retention election and therefore subsection 2f(e) *** does not apply to Plaintiff. Plaintiff is free to move out of the subcircuit in which he currently resides." Plaintiff subsequently filed a motion to reconsider and modify the judgment. In the motion, he argued that the court "did not rule on the relief requested" because it had not determined the constitutionality of subsection 2f(e). In an affidavit attached to the motion, plaintiff averred that he planned to run for retention. The trial court denied the motion. Plaintiff appeals.

¶ 8

ANALYSIS

¶ 9 Plaintiff contends that the trial court erred in not addressing the constitutionality of subsection 2f(e) because its finding that the statute did not apply to him was against the plain language of the statute. Asserting that the statute clearly applies to him, plaintiff argues that his constitutional argument must be addressed. The Board responds that the trial court rightly accepted its position that subsection 2f(e) was inapplicable and thus further consideration of its constitutionality is unnecessary to resolve plaintiff's claim and amounts to an improper request for an advisory opinion.

¶ 10

We review a trial court's judgment on the pleadings *de novo*. *Pekin Insurance Co. v. Wilson*, 237 Ill. 2d 446, 455 (2010). While the denial of a motion to reconsider is generally reviewed for an abuse of discretion, our standard is *de novo* where the trial court's decision concerns only matters of existing law. *Nissan Motor Acceptance Corp. v. Abbas Holding I, Inc.*, 2012 IL App (1st) 111296, ¶ 16.

¶ 11 Generally, "a party cannot complain of error which does not prejudicially affect it, and one who has obtained by judgment all that has been asked for in the trial court cannot appeal from the judgment." *Geer v. Kadera*, 173 Ill. 2d 398, 413-14 (1996) (quoting *Material Service Corp. v. Department of Revenue*, 98 Ill. 2d 382, 386 (1983)). The forum of the appellate court will not be afforded "to successful parties who may not agree with the reasons, conclusion or findings below." *Id.* at 414 (quoting *Illinois Bell Telephone Co. v. Illinois Commerce Commission*, 414 Ill. 275, 282-83, 111 N.E.2d 329 (1953)). Plaintiff's amended complaint alleged that a controversy existed because the application of subsection 2f(e) would cause him to "los[e] his seat on the bench by selling his home." The trial court resolved this controversy by ruling that plaintiff was free to move out of his subcircuit because the subsection did not apply to him. Having received relief from the potential injury alleged in his complaint, plaintiff cannot now appeal his success based upon his disagreement with the trial court's reasoning.

¶ 12 Plaintiff argues that his lawsuit was not truly successful because the relief he specifically requested was that subsection 2f(e) be declared unconstitutional; we disagree. Plaintiff's declaratory complaint is permissible under section 2-701 of the Code of Civil Procedure. 735 ILCS 5/2-701(West 2014). Pursuant to that statute, a court "may, in cases of actual controversy, make binding declarations of rights." 735 ILCS 5/2-701(a) (West 2014). Declaratory relief is appropriate "only where an actual controversy exists and the party seeking relief has a tangible, legal interest in the controversy." *Illinois State Toll Highway Authority v. Amoco Oil Co.*, 336 Ill. App. 3d 300, 305 (2003). Thus, every declaratory action requires: "(1) a plaintiff with a legal tangible interest; (2) a defendant having an opposing interest; and (3) an actual controversy between the parties concerning such interests."

Beahringer v. Page, 204 Ill. 2d 363, 372 (2003). An individual has no independent right to challenge the constitutionality of a statute; instead, any challenge must derive from a particular injury to that individual. See *State v. Funches*, 212 Ill. 2d 334, 346 (2004) ("A party has standing to challenge the constitutionality of a statute only insofar as it adversely impacts his or her own rights.") Our focus, therefore, lies on the interests and rights underlying plaintiff's claim. The trial court's order declared that plaintiff has the right to move out of his subcircuit. Plaintiff's complaint alleged no other interest endangered by section 2f(e). Accordingly, the trial court's order resolved any conflict of interests or rights in plaintiff's favor, albeit not under the specific reasoning preferred by plaintiff. Therefore, plaintiff, as the successful party, cannot now appeal.

¶ 13 Plaintiff also argues that his lawsuit was not successful because the trial court did not make a ruling on whether plaintiff will have to move back into the subcircuit he was originally elected from in order to run for retention in 2020. We note that this alleged potential harm is not referred to in plaintiff's amended complaint. The pleading refers only to "losing his seat on the bench" through selling his home and makes no mention of any future retention election. It appears from the record that the issue of plaintiff's potential future run for retention was first raised as an interjection by plaintiff's counsel in a hearing on March 26, 2015, and later in plaintiff's affidavit attached to his motion to reconsider. A plaintiff's case, and the trial court's jurisdiction, is framed by the allegations of the complaint. *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334 (2002). Thus, a party cannot be granted relief that was not requested in its complaint. See *Ligon v. Williams*, 264 Ill. App. 3d 701, 707 (1994) ("[T]he circuit court's jurisdiction, while plenary, is not boundless, and where no justiciable issue is presented to the court through proper pleadings,

the court cannot adjudicate an issue *sua sponte*.) Accordingly, we cannot find that the trial court erred by not resolving an alleged harm which plaintiff failed to include in his complaint.

¶ 14 This court may not "manufacture reasons" to address a statute's constitutionality; we will only consider a constitutional question where it is essential to the resolution of the case. *People v. White*, 2011 IL 109689, ¶¶ 144, 148. The trial court resolved any conflict or potential harm set forth in plaintiff's complaint. Therefore, any further consideration by this court of the constitutionality of section 2f(e) would be impermissibly superfluous.

¶ 15 CONCLUSION

¶ 16 For the foregoing reasons, we find that the trial court resolved any justiciable claims set forth in plaintiff's pleadings in his favor, and consequently, plaintiff cannot appeal from that favorable disposition. Accordingly, the judgment of the circuit court of Cook County is affirmed.

¶ 17 Affirmed.