

WILLIAM ORR

v.

TOWN OF STANDISH

Submitted on Briefs November 2, 2012

Decided November 13, 2012

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and
JABAR, JJ.

MEMORANDUM OF DECISION

William Orr appeals from the judgment of the Superior Court (Cumberland County, *Mills, J.*) dismissing, with prejudice, his complaint against the Town of Standish as untimely and barred by the doctrine of res judicata as a result of the previous dismissal of an identically-titled action. On appeal, Orr appears to contend that the Town erred, or was misled, in calculations that led to Planning Board decisions regarding a subdivision in June 2006 and January 2010. The trial court correctly concluded that this action, filed in 2012 seeking to challenge subdivision approvals occurring in 2006 and 2010, was out of time and, further, that it was barred by the doctrine of res judicata, as this action essentially duplicated a prior action dismissed by the Superior Court (*Wheeler, J.*). See *Norton v. Town of Long Island*, 2005 ME 109, ¶ 17, 883 A.2d 889 (addressing elements of the res judicata doctrine that bars relitigation of issues). Further, town elections not to enforce municipal land use laws, if any such election has occurred, are not subject to appeal because enforcement decisions are discretionary and review of an election not to enforce is therefore an advisory opinion, see *Herrle v. Town of Waterboro*, 2001 ME 1, ¶¶ 10-11, 763 A.2d 1159, and any effort to remove town officials from office must follow the law on point, see, e.g., 30-A

M.R.S. § 2633 (2011) (indicating process for removing town manager). Thus, the court properly dismissed the action.¹

The entry is:

Judgment affirmed.

On the briefs:

William Orr, appellant pro se

The Town of Standish did not file a brief

Cumberland County Superior Court docket number CV-2012-92
FOR CLERK REFERENCE ONLY

¹ We also note that the appellant, William Orr, did not file an appendix compliant with Rule 8 of the Maine Rules of Appellate Procedure. The appeal would also be subject to dismissal because of failure to file a proper appendix. *See State v. Dominique*, 2011 ME 18, ¶ 1, 12 A.3d 53.