

WILLIAM L. CLARDY

v.

JANET T. MILLS

Submitted on Briefs June 16, 2021
Decided June 24, 2021

Panel: MEAD, GORMAN, HUMPHREY, HORTON, and CONNORS, JJ.

MEMORANDUM OF DECISION

William L. Clardy appeals from a judgment of the Superior Court (Kennebec County, *Stokes, J.*) granting Governor Janet T. Mills's motion to dismiss his complaint for failing to state a claim upon which relief could be granted, pursuant to M.R. Civ. P. 12(b)(6), and for lack of subject matter jurisdiction because he was unable to demonstrate standing, pursuant to M.R. Civ. P. 12(b)(1). Additionally, Clardy appeals the court's denial of his request for default against the governor for failing to answer within twenty days of being served with his complaint. Because the Governor filed a motion to dismiss Clardy's complaint within twenty days of acknowledging service of his complaint, the court did not abuse its discretion in denying Clardy's request for default. *See* M.R. Civ. P. 4(c)(1); *Smith v. Rideout*, 2010 ME 69, ¶ 10, 1 A.3d 441. Additionally, Clardy failed to demonstrate that he suffered a particularized injury when the governor executed Executive Order 39 FY 19/20, which delayed the primary elections from June 9, 2020 to July 14, 2020 in response to concerns raised by the coronavirus pandemic, and thus he failed to demonstrate that he has standing to bring the suit. *See Madore v. Me. Land Use Regul. Comm'n*, 1998 ME 178, ¶¶ 8, 13, 715 A.2d 157. Furthermore, no exception to the particularized injury requirement applies because Clardy

is not bringing suit against a municipality, *see Buck v. Yarmouth*, 402 A.2d 860 (Me. 1979); nor is a state-backed fiscal obligation implicated. *See Common Cause v. State*, 455 A.2d 1, 6 (Me. 1983). Therefore, the court did not err by granting the Governor’s Rule 12(b)(1) motion. Clardy also failed to demonstrate that his claims were ripe for judicial review or otherwise not moot. *See Avangrid Networks, Inc. v. Sec’y of State*, 2020 ME 109, ¶ 16, 237 A.3d 882; *Madore*, 1998 ME 178, ¶ 8, 715 A.2d 157.¹

The entry is:

Judgment affirmed.

William L. Clardy, appellant pro se

Aaron M. Frey, Attorney General, and Kimberly L. Patwardhan, Asst. Atty. Gen.,
Office of the Attorney General, Augusta, for appellee Janet T. Mills

Kennebec County Superior Court docket number CV-2020-141
FOR CLERK REFERENCE ONLY

¹ Because we affirm dismissal on grounds of justiciability, we do not address the Superior Court’s alternate basis for dismissal for failing to state a claim upon which relief can be granted, pursuant to M.R. Civ. P. 12(b)(6). *See In re M.M.*, 2014 ME 15, ¶ 7, 86 A.3d 622 (stating that, once the court determines that a plaintiff lacks standing, it is “required” to dismiss the action “without proceeding further because it ha[s] no power to adjudicate the case”).