

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Hon. Eugene Velazco, Jr.,
Judge of the Town Court
of Merrillville,
Appellant-Petitioner,

v.

Town Council of the Town of
Merrillville, b/a/t President Rick
Bella,
Kelly White-Gibson, Clerk-
Treasurer of the Town of
Merrillville, and

January 9, 2024
Court of Appeals Case No.
23A-MI-1679
Appeal from the
Lake Superior Court
The Honorable
Bruce D. Parent, Judge
Trial Court Cause No.
45D11-2012-MI-836

Michael Brown, Clerk of the
Lake Circuit/Superior Court,
Appellees-Respondents

Memorandum Decision by Judge Vaidik
Judges Bradford and Brown concur.

Vaidik, Judge.

- [1] In December 2019, the Merrillville Town Council adopted an ordinance (19-27(B)) to close the Merrillville Town Court as of December 31, 2020, with its caseload to be transitioned to the Lake County courts. Two weeks before that date, the judge of the Town Court, Eugene Velazco, Jr., sued to stop the closure, claiming that the Town Council didn't follow state law in adopting the closure ordinance. In January 2021, the trial court granted a preliminary injunction keeping the Town Court open until the case could be heard on the merits. However, the trial court also ordered Judge Velazco to "begin the winding-down" of the Town Court. Appellant's App. Vol. II p. 41.
- [2] The litigation was still pending when, in July 2022, the Town Council presented on first reading a new ordinance (22-19) that would close the Town Court as of September 30, 2022. Judge Velazco filed a motion for rule to show cause, claiming that the new ordinance violated the preliminary injunction. The trial court denied Judge Velazco's motion but instructed the Town Council to leave the closure date open-ended for logistical reasons:

The Court instructs the TOWN COUNCIL to leave the closure date for the town court open-ended as a closure date will be largely dictated by things outside the control of this Court and these parties; specifically, the operations of the State of Indiana under [] Administrative Rule 10, the operations of Tyler Technologies (Odyssey) which will be required to perform a computer build-out to facilitate both closure and the transfer of data, and the implementation of that computer build-out by [the Lake County Clerk of Court].

Id. at 49.

[3] The Town Council and Judge Velazco then worked together to amend the ordinance. Among other things, the specific closure date was removed, and the Town Clerk-Treasurer, the Lake County Clerk of Court, and the Indiana Office of Court Services would be given detailed instructions for the winding down of the Town Court. *Id.* at 132-35. Judge Velazco was “involved in [the] process of writing the amendment, and agreed to the words used.” *Id.* at 33. The ordinance as amended was presented on second reading and passed at a Town Council meeting on October 11, 2022.

[4] Three months later, Judge Velazco filed a new lawsuit against the Town Council. He claimed that the amendments to the ordinance “were so substantial and material as to require that the Ordinance be presented as a new ordinance on *first* reading, as opposed to second reading, on October 11, 2022.” *Id.* at 57 (citing *State ex rel. Blackwell v. Hatcher*, 426 N.E.2d 118 (Ind. Ct. App. 1981), and *Swindell v. State*, 42 N.E. 528 (Ind. 1895)). The new case was consolidated with the original case, and the parties filed cross-motions for summary judgment.

The trial court granted summary judgment to the Town Council, finding that the amendments were not “substantial and material” because “the only new language was transitional wording, aimed at how the COUNCIL and the JUDGE are to go about the process of winding down and closing the Town Court.” *Id.* at 32-33.

[5] Judge Velazco now appeals, renewing his argument that the amendments to the ordinance were “substantial and material” and that therefore the ordinance as amended should have been presented as a new ordinance on first reading. We don’t reach that issue, as we find that Judge Velazco lacks standing to challenge the ordinance on that basis.

[6] To have standing, a plaintiff must show a personal stake in the outcome of the litigation and “that they have suffered or were in immediate danger of suffering a direct injury as a result of the complained-of conduct.” *Solarize Ind., Inc. v. S. Ind. Gas & Elec. Co.*, 182 N.E.3d 212, 217 (Ind. 2022). Here, the complained-of conduct is the Town Council presenting the amended ordinance on second reading rather than starting the process over and presenting it on first reading. But “[t]he prohibition against making material and substantial changes in a pending ordinance without notice thereof appears to be directed toward preventing the public from being misled by the publication of the pending ordinance in its original form.” *Hatcher*, 426 N.E.2d at 124. There was no risk that Judge Velazco would be misled. He was not only aware of the amendments to the ordinance; he participated in drafting them and ultimately agreed to them. Therefore, he didn’t suffer, and was not in immediate danger of

suffering, a direct injury as a result of the amended ordinance going straight to second reading, and he lacks standing to complain about that procedure.

[7] Affirmed.

Bradford, J., and Brown, J., concur.