THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2025-0297, Daniel Richard v. Governor, State of New Hampshire & a., the court on January 13, 2026, issued the following order:

The court has reviewed the written arguments and the record submitted on appeal, and has determined to resolve the case by way of this order. See Sup. Ct. R. 20(3). The plaintiff, Daniel Richard, appeals an order of the Superior Court (Ruoff, J.), on remand from our decision in Richard v. Governor, 177 N.H. 11 (2024), 2024 N.H. 53 (Richard I), dismissing his remaining equal protection claims against the defendants for failure to state a claim upon which relief may be granted. We affirm.

Only part of one of the plaintiff's six original claims survived Richard I. In reviewing the trial court's dismissal of that claim, we consider whether the pertinent allegations in the plaintiff's pleadings are reasonably susceptible of a construction that would permit recovery. See Richard I, 177 N.H. at 16, 2024 N.H. 53, ¶ 11. We assume the truth of the relevant well-pleaded factual allegations in the plaintiff's pleadings and construe all reasonable inferences from those facts in the light most favorable to the plaintiff. See id. We do not, however, assume the truth of statements in the plaintiff's pleadings that are conclusions of law. See id.; ERG, Inc. v. Barnes, 137 N.H. 186, 190 (1993) ("The court will not, however, assume the truth or accuracy of any allegations which are not well-pleaded, including the statement of conclusions of fact and principles of law."). We will uphold the trial court's decision if the facts pleaded do not constitute a basis for relief. See Richard I, 177 N.H. at 16, 2024 N.H. 53, ¶ 11.

In Richard I, the plaintiff appealed the dismissal of his August 2022 complaint, in which he had challenged voting procedures utilized by the Town of Auburn and the constitutionality of certain election-related statutes and certain amendments to the State Constitution, for failure to state a claim upon which relief may be granted. Id. at 13, 2024 N.H. 53, ¶ 2. We concluded that the plaintiff lacked standing to assert counts III through VI of his complaint, an issue that the defendants had raised but the trial court had not addressed in dismissing the complaint. Id. at 14, 19-20, 2024 N.H. 53, ¶¶ 3-4, 22-24. Because the plaintiff lacked standing to assert counts III through VI, we concluded that the trial court lacked jurisdiction over those claims, and thus, we vacated the trial court's dismissal of those claims on the merits, and we directed the trial court, on remand, to dismiss those claims for lack of subject matter jurisdiction. Id. at 20, 2024 N.H. 53, ¶ 24.

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Conversely, with respect to counts I and II of the complaint, we concluded that the plaintiff had standing to raise the claims that he asserted in those counts. Id. at 15-16, 2024 N.H. 53, ¶¶ 9-10, 12. We then upheld the trial court's dismissal, on the merits, of the plaintiff's claims in counts I and II that RSA 656:40-:42 (2016 & Supp. 2023) violated Part II, Article 32 of the New Hampshire Constitution. Id. at 16-18, 2024 N.H. 53, ¶¶ 12-19. However, we also observed that the trial court had not addressed the plaintiff's claim in count II that RSA 656:40-:42 violated the Equal Protection Clauses of the State and Federal Constitutions. Id. at 18-19, 2024 N.H. 53, ¶¶ 20-21. Accordingly, we remanded the case for the limited purpose of addressing the plaintiff's equal protection claims in count II. Id. at 19, 2024 N.H. 53, ¶ 21.

On remand, the defendants filed supplemental dismissal motions, arguing that RSA 656:40-:42 do not, as a matter of law, violate the equal protection provisions of either constitution. The trial court agreed, reasoning that the statutes do not violate equal protection under either constitution[1] because they (1) do not treat similarly-situated persons differently; (2) are reasonable and nondiscriminatory, merely granting municipalities discretion to use ballot counting devices and regulating the use of such devices by those municipalities that adopt them; and (3) serve an important regulatory interest.

As the appealing party, the plaintiff has the burden of demonstrating reversible error. Gallo v. Traina, 166 N.H. 737, 740 (2014). Based on our review of the trial court's well-reasoned order, the plaintiff's arguments, the relevant law, and the record submitted on appeal, we conclude that the plaintiff has not demonstrated that the trial court erred by determining that count II fails to state an equal protection claim upon which relief may be granted. See id. The remaining arguments raised by the plaintiff are either insufficiently developed or otherwise do not warrant further discussion.[2] See State v. Blackmer, 149 N.H. 47, 49 (2003); Vogel v. Vogel, 137 N.H. 321, 322 (1993).

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[1] Consistent with State v. Ball, 124 N.H. 226, 231-33 (1983), the trial court determined that the Federal Constitution is no more protective of the plaintiff's rights than the State Constitution, and thus, it addressed the plaintiff's equal protection claim under the State Constitution, relying on federal law only to aid in its analysis. Under these circumstances, we interpret the trial court's order as necessarily ruling that count II also fails to state a federal equal protection claim. See, e.g., State v. Jordan, 176 N.H. 34, 43 (2023) (reaching same result under Federal Constitution as under State Constitution with respect to equal protection argument because Federal Constitution's Equal Protection Clause offered no greater protection to defendant than State Constitution,); see also In the Matter of Salesky & Salesky, 157 N.H. 698, 702 (2008) (stating that interpretation of trial court order is question of law subject to de novo review).

[2] We note that the trial court, in implementing our instruction in Richard I to dismiss counts III through VI for lack of standing, dismissed count I and counts III through VI for lack of standing. To the extent the plaintiff argues that, because we determined in Richard I that he had standing to assert the claim in count I of his complaint, this portion of the trial court's

In light of this order, the plaintiff's motion to expedite oral argument is denied as moot.

Affirmed.

MacDonald, C.J., and Donovan, Countway, and Gould, JJ., concurred.

Timothy A. Gudas,
Clerk

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order violates the law of the case doctrine, we note that we also affirmed the dismissal of count I on the merits in Richard I. See Richard I, 177 N.H. at 16-18, 2024 N.H. 53, ¶¶ 10-19. Because we affirmed the dismissal of count I on the merits in Richard I, the plaintiff has not established that the post-remand dismissal of count I for lack of standing constituted reversible error. See Gallo, 166 N.H. at 740; Kessler v. Gleich, 156 N.H. 488, 494 (2007) ("Where it appears that an error did not affect the outcome below, or where the court can see from the entire record that no injury has been done, the judgment will not be disturbed." (Quotation omitted.)).