

STATE OF MICHIGAN
COURT OF CLAIMS

DONALD J. TRUMP FOR PRESIDENT, INC.,
and ERIC OSTEGREN,

OPINION AND ORDER

Plaintiffs,

v

Case No. 20-000225-MZ

JOCELYN BENSON, in her official capacity as
Secretary of State,

Hon. Cynthia Diane Stephens

Defendant.

_____ /

Pending before the Court is defendant's November 25, 2020 motion for summary disposition. Because this case is moot, the motion is GRANTED.

The underlying allegations in this case have been set forth in this Court's November 6, 2020 opinion and order—denying emergency declaratory relief—and need not be repeated herein. In short, plaintiffs contend that plaintiff Eric Ostegren, a credentialed election challenger, was excluded from an absent voter ballot counting board. In addition, the complaint makes allegations about video surveillance of absent voter ballot drop-boxes.

Defendant asks the Court to dismiss this matter as moot. “An essential element of our courts’ judicial authority is that the courts do not reach moot questions or declare rules of law that have no practical legal effect in a case.” *In re Detmer/Beaudry*, 321 Mich App 49, 55; 910 NW2d 318 (2017) (citation and quotation marks omitted). “A matter is moot if this Court’s ruling cannot

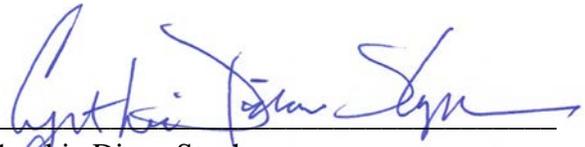
for any reason have a practical legal effect on the existing controversy.” *Garrett v Washington*, 314 Mich App 436, 449; 886 NW2d 762 (2016) (citation and quotation marks omitted). Or, “[s]tated differently, a case is moot when it presents nothing but abstract questions of law which do not rest upon existing facts or rights.” *In re Detmer/Beaudry*, 321 Mich App at 56 (citation and quotation marks omitted).

Following this Court’s denial of emergency declaratory relief, plaintiffs sought leave to appeal. The Court of Appeals denied the application, and the majority’s order opined that the State Board of Canvassers’ certification of election results “clearly rendered plaintiff’s claims for relief moot.” *Donald J Trump for President, Inc v Secretary of State*, unpublished order of the Court of Appeals, entered December 4, 2020 (Docket Nos. 355378; 355397). The Court sees no reason it could stray from this conclusion, see *Zaremba Equipment, Inc v Harco Nat’l Ins Co*, 302 Mich App 7, 16; 837 NW2d 686 (2013) (explaining the law of the case doctrine), nor would it reach a different conclusion, even if permitted to do so. The questions posed in this case are clearly moot. To that end, votes have been counted, the results of the election have been certified, and this state’s electors have been seated. The dates for these activities have since come and gone. See MCL 168.46; MCL 168.47; MCL 168.841; MCL 168.842; MCL 168.845. This Court is incapable of rendering the relief requested by plaintiffs at this point in time, and it will dismiss this matter as moot as a result. Finally, there is no merit in plaintiffs’ assertion that, the Court should hear this case because the issues are of public significance and are likely to recur, yet escape judicial review. Cf. *League of Women Voters of Mich v Secretary of State*, ___ Mich ___, ___ n __; ___ NW2d ___ (2020) (Docket Nos. 160907; 160908), slip op at 14 n 26. Any argument by plaintiffs that the issues and unique facts of this case are likely to recur are entirely speculative.

IT IS HEREBY ORDERED that defendant's motion for summary disposition is GRANTED because this case is MOOT.

This is a final order that resolves the last pending claim and closes the case.

January 6, 2021



Cynthia Diane Stephens
Judge, Court of Claims