

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

DAVID ESRATI

CASE NO. 2018 CV 00593

Plaintiff,

JUDGE RICHARD S. SKELTON

-vs-

DAYTON CITY COMMISSION et al.

DECISION AND JUDGMENT ENTRY
GRANTING MOTIONS FOR SUMMARY
JUDGMENT & DISMISSING ACTION

Defendant.

This matter is before the Court on the motions of Defendants for summary judgment in their favor and against the Plaintiff dismissing this action. June 01, 2018. Plaintiff has opposed the motions. June 15, 2018. On March 15, 2018, the Court held an evidentiary hearing on Plaintiff's Motion For a Preliminary Injunction in which Plaintiff acknowledged that his claim under the Ohio Sunshine Law was that the bus tour on February 6, 2018 was a public meeting subject to R.C. 121.22 which the Defendants violated by precluding him from participating. Plaintiff argues that the bus tour was a "secret meeting". However, as indicated in the Court's decision denying the motion for a preliminary injunction, there is no evidence that any deliberations occurred during the bus tour or any discussion of the prospective closing of school buildings. The Court adopts its previous decision and the findings of fact and conclusions of law made in that March 19, 2018 decision. Plaintiff has not presented any additional evidence in opposition to the defense motions. Defendants have filed reply memoranda in support of their motions. June 22, 2018.

At the request of Defendants, the hearing on the motion for a preliminary injunction was not consolidated with the merits pursuant to Civ. R. 65(B)(2). Thus, motions for summary judgment are in order. Plaintiff had additionally sought more time for discovery, but advised the Court that he would stand on his response to the defense motions.

The Court finds that the individual Defendants are not proper parties and Plaintiff has not stated a viable claim against them under the statute. The Court finds that the Dayton Board of Education and the Dayton City Commission are proper parties within the definition of a public body subject to the requirements for open meetings. The Task Force was a committee or subcommittee of the Board of Education and subject to the statute. R.C. 121.22(B)(1). There is no evidence that the Task Force and/or bus tour participants constituted a committee of the Dayton City Council. In accordance with the statute, the Court has liberally construed its provisions in favor of the requirement that official action and deliberations upon official business occur only in open meetings, excepted as specified in the statute. R.C. 121.22(A).

The Court concludes that there are no genuine issues of material fact in dispute and that the Defendants are entitled to judgment as a matter of law. Civ. R. 56(C), Ohio R. Civ. P. Judgment is entered in favor of the Defendants and against Plaintiff dismissing this action with prejudice.

SO ORDERED.

JUDGE RICHARD S. SKELTON

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General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Type: Decision

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So Ordered