



Connie Taylor, Clerk of Superior Court  
Cobb County, Georgia

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

COLIN BRADY,  
Petitioner,

v.

COBB COUNTY, GEORGIA ET. AL.,  
Respondents.

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CASE NO. 22-1-02751-53

**ORDER TO STAY PROCEEDINGS**

This case comes before the Court on Petitioner’s Complaint, filed April 21, 2022, seeking a Writ of Mandamus, Declaratory Relief, and Injunctive Relief. Petitioner contends that House Bill 841 (2022) (“HB 841”), a local law providing for the creation and charter of the proposed City of East Cobb, is unconstitutional and that the referendum set for the May 24, 2022 primary should be prohibited from placement on the ballot.

HB 841 was signed by Governor Kemp on February 15, 2022 and provides that the election superintendent shall set the date of the proposed City of East Cobb referendum for the 2022 general primary, which is May 24, 2022. On that date, qualified voters of the proposed City of East Cobb may vote to approve or reject HB 841.

Petitioner contends that the proposed City of East Cobb is unconstitutional for various reasons.

Upon review of all matters of record, this Court finds that Petitioner seeks relief prematurely, and that this matter is not yet ripe for review.

Petitioner asks this Court to rule on the constitutionality of a *proposed* law that *may or may not* go into effect. “It is a settled principle of Georgia law that the jurisdiction of the courts is confined to justiciable controversies, and the courts may not properly render advisory opinions. Fulton Co. v. City of Atl., 299 Ga. 676 (2016), quoting Hinson v. First Nat. Bank, 221Ga. 408 (1965).

“The Declaratory Judgment Act, O.C.G.A. § 9-4-1 et seq, authorizes declaratory judgments only to resolve *actual* and *justiciable* controversies. Fulton Co., *supra*, at 677 (emphasis added). “A controversy is justiciable when it is definite and concrete, rather than being hypothetical, abstract, academic or moot.” Id.

In effect, Petitioner seeks a legal opinion from the Court about a result which may or may not occur: the approval of HB 841 by qualified voters on May 24, 2022. At this time, Petitioner’s rights are limited to those available to any other citizen of this state who is opposed to proposed legislation. Petitioner is entitled to campaign against it and, if Petitioner is unsuccessful in that effort, he may bring a challenge to its constitutionality on any arguably meritorious basis, assuming they have standing to do so.

This Court declines to interfere with the legislative process and remove the referendum from the ballot. Should the voters reject the proposal, the case will be moot and dismissed. Should the proposal meet approval by the voters, the parties may petition this Court for the relief that they seek, and the complex issues presented in this case can be heard with the benefit of full briefing and argument, rather than with an abnormally shortened and rushed timeline.

In the meantime, it is incumbent on the proponents, opponents, and voters—not this Court—to educate one another on the issues presented in this lawsuit and the likely effects of approving HB 841 in the upcoming referendum.

Accordingly, the above-styled case is hereby **STAYED** until after the referendum on May 24, 2022. All deadlines for parties and potential intervenors shall be stayed and extended for 30 days beyond the referendum.

SO ORDERED, this 28 day of April 2022.

  
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**ROBERT D. LEONARD II**  
**Chief Judge, Superior Court of Cobb County**  
**Cobb Judicial Circuit**

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served all interested parties in the within and foregoing matter by depositing a copy of the **Order to Stay Proceedings** dated the 28 day of Apr. 2022, in the regular United States Mail in the properly addressed envelopes with adequate postage thereon addressed as follows or via email through PeachCourt to counsel of record:

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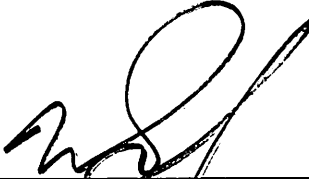
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This 28 day of Apr. 2022.

  
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**Mimi Anna Scaljon, Esq.**  
**Staff Attorney to**  
**Judge Robert D. Leonard II**