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# SUPREME COURT OF ALABAMA

OCTOBER TERM, 2019-2020

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**The City of Montgomery and American Traffic Solutions, Inc.**

**v.**

**Charles Hunter and Mike Henderson**

**Appeal from Montgomery Circuit Court  
(CV-15-901274)**

BOLIN, Justice.

The City of Montgomery ("the City") and American Traffic Solutions, Inc. ("ATS") (hereinafter referred to collectively as "the defendants"), were granted a permissive appeal from an order of the Montgomery Circuit Court denying their motion to

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dismiss a complaint, seeking, among other things, a declaratory judgment, filed by Charles Hunter and Mike Henderson (hereinafter referred to collectively as "the plaintiffs"), individuals who were cited for traffic violations. In their complaint, the plaintiffs challenged a local municipal ordinance authorizing the use of cameras for issuing traffic citations. The plaintiffs claimed that Act No. 2009-740, Ala. Acts 2009, and sections of the Montgomery Municipal Code allowing for the ticketing of drivers who are photographed proceeding through red lights violate §§ 89, 104, and 105, Ala. Const. 1901.

#### Facts and Procedural History

On April 27, 2015, Hunter ran a red light at an intersection within the corporate limits of the City. At some point "within the past two years," Henderson also ran a red light at another intersection within the corporate limits of the City. The automated-camera equipment at the intersections detected and photographed the plaintiffs' vehicles running the red lights. ATS installed and currently maintains, pursuant to an agreement with the City, the equipment that photographed

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both plaintiffs' vehicles. As a result, both Hunter and Henderson received civil citations.

On August 7, 2015, Hunter, individually and on behalf of a putative class of individuals who had received notice of violation pursuant to the local Act, sued the City and ATS, challenging sections of the Montgomery Municipal Code allowing ticketing of drivers by cameras and alleging that the City's issuance of citations pursuant to those sections violated his constitutional and statutory rights. Hunter sought to represent those persons who had been ticketed and had paid the fine. The defendants removed the case from state court to federal court. On February 3, 2016, Hunter filed an amended complaint, which added Henderson as a plaintiff and omitted any federal constitutional claims against the defendants. Henderson sought to represent those persons who had been ticketed but who had not paid the fine.

Upon determining that there were no federal claims remaining and that the Class Action Fairness Act was inapplicable, the United States District Court for the Middle District of Alabama remanded the case to the Montgomery Circuit Court. The defendants appealed that decision to the

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United States Court of Appeals for the Eleventh Circuit. The Montgomery Circuit Court stayed the case during the pendency of that appeal. On June 14, 2017, the Eleventh Circuit affirmed the district court's decision to remand the case, specifically holding that ATS was not a primary defendant and that, therefore, the home-state exception to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4)(B), was applicable. Hunter v. City of Montgomery, 859 F.3d 1329 (11th Cir. 2017).

On July 6, 2017, the plaintiffs filed a third amended complaint in the Montgomery Circuit Court. On July 20, 2017, the defendants filed a joint motion to dismiss. The plaintiffs filed a response, and the circuit court conducted a hearing on the motion to dismiss. Shortly after the hearing, the plaintiffs filed a fourth amended complaint. On June 7, 2018, the circuit court entered an order denying the defendants' motion to dismiss.

On July 3, 2018, the circuit court entered an order granting a joint petition for a permissive appeal. On October

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1, 2018, this Court granted in part the petition for permission to appeal.<sup>1</sup>

Standard of Review

"A ruling on a motion to dismiss is reviewed without a presumption of correctness. Nance v. Matthews, 622 So. 2d 297, 299 (Ala. 1993). This Court must accept the allegations of the complaint as true. Creola Land Dev., Inc. v. Bentbrooke Housing, L.L.C., 828 So. 2d 285, 288 (Ala. 2002). We must also view the allegations of the complaint most strongly in the

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<sup>1</sup>We allowed the permissive interlocutory appeal of the first four certified questions of law presented in the joint petition as follows:

- "I. Whether Alabama Act No. 2009-740 and the Montgomery Ordinance implementing it do or do not violate Article IV § 105 of the Alabama Constitution?
- "II. Whether Alabama Act No. 2009-740 and the Montgomery Ordinance implementing it do or do not violate Article IV § 89 of the Alabama Constitution?
- "III. Whether Alabama Act No. 2009-740 and the Montgomery Ordinance implementing it do or do not violate Article IV § 104 of the Alabama Constitution?
- "IV. Whether Alabama Act No. 2009-740 and the Montgomery Ordinance implementing it do or do not violate any provisions of Ala. Code § 11-45-1, et seq., and/or Ala. Code 1975, § 32-5-1, et seq.?"

pleader's favor to determine whether it appears the pleader could prove any set of circumstances that would entitle the pleader [to] relief. Nance, 622 So. 2d at 299. Furthermore, we will not consider whether the pleader will ultimately prevail on the complaint but whether the pleader may possibly prevail. Id.

"For a declaratory-judgment action to withstand a motion to dismiss there must be a bona fide justiciable controversy that should be settled. Anonymous v. Anonymous, 472 So. 2d 640, 641 (Ala. Civ. App. 1984); Smith v. Alabama Dry Dock & Shipbuilding Co., 293 Ala. 644, 309 So. 2d 424, 427 (1975). The test for the sufficiency of a complaint seeking a declaratory judgment is whether the pleader is entitled to a declaration of rights at all, not whether the pleader will prevail in the declaratory-judgment action. Anonymous, 472 So. 2d at 641.

"The lack of a justiciable controversy may be raised by either a motion to dismiss or a motion for a summary judgment. Smith, [293 Ala. at 649,] 309 So. 2d at 427. See also Rule 12, Ala. R. Civ. P.; Rule 56, Ala. R. Civ. P. However, a motion to dismiss is rarely appropriate in a declaratory-judgment action. Wallace v. Burleson, 361 So. 2d 554, 555 (Ala. 1978). If there is a justiciable controversy at the commencement of the declaratory-judgment action, the motion to dismiss should be overruled and a declaration of rights made only after an answer has been submitted and evidence has been presented. Anonymous, 472 So. 2d at 641. However, if there is not a justiciable controversy, a motion to

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dismiss for failure to state a claim should be granted. Curjel v. Ash, 263 Ala. 585, 83 So. 2d 293, 296 (1955).'

"Harper v. Brown, Stagner, Richardson, Inc., 873 So. 2d 220, 223 (Ala. 2003)."

Muhammad v. Ford, 986 So. 2d 1158, 1161-62 (Ala. 2007).

### State and Local Law

#### A. Statutory Law

Chapter 45, Title 11, Alabama Code 1975, sets forth certain requirements for the adoption and enforcement of municipal ordinances. Section 11-45-1, Ala. Code 1975, provides:

"Municipal corporations may from time to time adopt ordinances and resolutions not inconsistent with the laws of the state to carry into effect or discharge the powers and duties conferred by the applicable provisions of this title and any other applicable provisions of law and to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the inhabitants of the municipality, and may enforce obedience to such ordinances."

The Alabama Traffic Code, § 32-5A-1 et seq., Ala. Code 1975, governs the rules of the road throughout the State. Section 32-5A-31, Ala. Code 1975, provides, in pertinent part:

"The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with law, unless otherwise directed by a police officer,

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subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter."

Section 32-5A-32, Ala. Code 1975, provides, in pertinent part:

"(3) Steady red indication:

"a. Vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on either side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to proceed is shown ...."

Section 32-5A-8, Ala. Code 1975, provides:

"(a) It is a misdemeanor for any person to violate any of the provisions of this chapter or of Title 32, unless such violation is by this chapter or other law of this state declared to be a felony.

"(b) Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided, shall for a first conviction thereof be punished by a fine of not more than \$100 or by imprisonment for not more than 10 days; for conviction of a second offense committed within one year after the date of the first offense, such person shall be punished by a fine of not more than \$200.00 or by imprisonment for not more than 30 days or by both such fine and imprisonment; for conviction of a third or subsequent offense committed within one year after the date of the first offense, such person shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than three months or by both such fine and imprisonment."



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In addition, § 32-5A-11, Ala. Code 1975, provides that "[t]his chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of various jurisdictions."

The uniform procedure for traffic citations issued by a law-enforcement agency or any other person is set forth in § 12-12-53, Ala. Code 1975, which provides:

"(a) Every law enforcement agency in the state shall use traffic citations of the form known as the uniform traffic ticket and complaint, which shall be substantially uniform throughout the state and which shall be issued, except for an electronic traffic ticket or e-ticket, as defined in Section 32-1-4, in books with citations in no less than quadruplicate.

"(b) The uniform traffic ticket and complaint shall be used in traffic cases where a complaint is made by a law enforcement officer or by any other person or an information is filed by the district attorney."

B. Local Law: The Local Act and the Ordinance

On February 6, 2007, the Montgomery City Council passed Ordinance No. 10-2007 ("the ordinance"), which allows for automated photographic enforcement of traffic-control devices. In 2009, the Alabama Legislature enacted the Montgomery Red Light Safety Act, Act No. 2009-740, Ala. Acts 2009 ("the local Act"), a local act applicable to the City, which became

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effective on May 22, 2009. Section 4(a) of the local Act "ratified and validated" the ordinance "ab initio."

No purpose would be served by setting out the provisions of the ordinance or the local Act in their entirety. We point out a few pertinent sections of the local Act for the purpose of showing how it differs from the Alabama Traffic Code. Although there are some variations between the local Act and the ordinance, most of the pertinent provisions are similar.

Section 3 of the local Act defines the following terms:

"(3) CIVIL VIOLATION. There is hereby created a non-criminal category of state law called a civil violation created and existing for the sole purpose of carrying out the terms of this act. The penalty for violation of a civil violation shall be the payment of a civil fine, the enforceability of which shall be accomplished through civil action. The prosecution of a civil violation created hereby shall carry reduced evidentiary requirements and burden of proof as set out in Section 6, and in no event shall an adjudication of liability for a civil violation be punishable by a criminal fine or imprisonment.

". . . .

"(7) TRAFFIC SIGNAL VIOLATION. Any violation of Section 32-5A-31, Section 32-5A-32, or Section 32-5A-35, Code of Alabama 1975, or of any combination thereof, wherein a vehicle proceeds into a signalized intersection at a time while the traffic-control signal for that vehicle's lane of travel is emitting a steady red signal. A traffic signal

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violation shall be a civil violation as defined in this act."

Section 4 of the local Act further provides, in pertinent part:

"(a) The City of Montgomery is empowered to utilize an automated photographic traffic signal enforcement system to detect and record traffic signal violations, to issue notices of civil violations by mail, and to prosecute civil violations for the recorded traffic signal violations which may occur within the corporate limits of the City of Montgomery as provided in this act. A civil fine assessed under this act shall not exceed one hundred dollars (\$100), and municipal court costs may be assessed in the same manner and in the same amounts prescribed for a municipal criminal traffic-control device violation prosecuted as a misdemeanor under Sections 32-5A-31, 32-5A-32, 32-5A-35, or any combination thereof. An additional fee of ten dollars (\$10) shall be added to the Montgomery Municipal Court costs authorized to be collected in connection with notices issued under this act. Court costs collected pursuant to this act shall be distributed in the same manner as prescribed by law for the distribution of municipal court costs for misdemeanor violations...."

In general, § 6(a) of the local Act provides that the Montgomery Municipal Court is vested with the "power and jurisdiction to hear and adjudicate the civil violations provided for in this act." In addition, § 6(b) provides that a person cited with the civil violation may contest the civil fine in municipal court by submitting a written request for a

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hearing on the adjudication of the civil violation within 15 days after the 10th day after the date the notice of violation is mailed. Section 6(c) provides that the failure to pay a civil penalty or to contest liability in a timely manner is an admission of liability under the local Act.

Section 6(e) provides:

"If an adjudicative hearing is requested, the city shall have the burden of proving the traffic signal violation by a preponderance of the evidence. The reliability of the photographic traffic signal enforcement system used to produce the recorded image of the violation may be attested to by affidavit of a trained technician. An affidavit of a trained technician that alleges a violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this act and is evidence of the facts contained in the affidavit."

Section 6(j) lists several affirmative defenses to be proven by a preponderance of the evidence.

Section 7(c) provides:

"A person who is found liable after an adjudicative hearing may appeal that finding of civil liability to the Circuit Court of Montgomery County, Alabama, by filing a notice of appeal with the clerk of the municipal court. The notice of appeal must be filed not later than the 14th day after the date on which the municipal court judge entered the finding of civil liability. The filing of a notice of appeal shall stay the enforcement of the civil fine penalty. An appeal shall be determined by the circuit court by trial de novo."

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Section 8 provides:

"(a) The circuit court hearing an appeal shall use the procedures that apply to criminal convictions in municipal court with the following qualifications:

"(1) The proceedings shall retain their civil nature on appeal with the circuit court applying the preponderance of the evidence standard.

"(2) If the person is adjudicated by the circuit court to be responsible for payment of the civil fine, circuit court costs shall be owed by the person adjudicated responsible, with 100 percent of those court costs retained by the circuit court. Court costs in the circuit court shall be calculated as are court costs for criminal appeals from the municipal court, and in the event the circuit court finds the person appealing to not be responsible, no municipal court costs shall be owed to the city.

"(3) Regardless of the civil nature of the proceedings, the circuit court, in its discretion and for its administrative convenience, may assign case numbers as for criminal appeals and place the appeals on criminal dockets in the same manner as criminal appeals from municipal court.

"(4) The circuit court shall sit as trier of both fact and law in the civil proceedings in the circuit court.

"(5) The city shall be responsible for providing an attorney to represent the city and to prosecute the civil proceedings in the circuit court."

Section 10 provides, in pertinent part:

"No person may be arrested or incarcerated for nonpayment of a civil fine or late fee. No record of an adjudication of civil violation made under

this act shall be listed, entered, or reported on any criminal record or driving record, whether the record is maintained by the city or an outside agency. An adjudication of civil violation provided for in this act shall not be considered a conviction for any purpose, shall not be used to increase or enhance punishment for any subsequent offense of a criminal nature, shall not be considered a moving violation, and shall not be used by any insurance company to determine or affect premiums or rates unless an accident occurred due to the violation. The fact that a person is held liable or responsible for a civil fine for a red light violation shall not be used as evidence that the person was guilty of negligence or other culpable conduct, and any evidence generated by a photographic traffic signal enforcement system may only be used as evidence in other proceedings if it is or becomes admissible under the rules of evidence applicable herein."

Section 13 provides:

"No civil penalty may be imposed and no adjudication of liability for a civil violation may [be] made under this act if the operator of the vehicle was arrested or was issued a citation and notice to appear by a sworn police officer for a criminal violation of any portion of Article II, Chapter 5A, Title 32 including, but not limited to, Sections 32-5A-31, 32-5A-34, and 32-5-35 of the Code of Alabama 1975, or any other municipal ordinance which embraces and incorporates the statutes contained in that article, and which occurred simultaneously with and under the same set of circumstances which were recorded by the photographic traffic signal enforcement system."

In addition, § 14 provides:

"Any person against whom an adjudication of liability for a civil violation is made under this act, or the ordinance passed pursuant hereto, and

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who actually pays the civil fine imposed thereby shall have a cause of action against any person who may be shown to have been operating the vehicle recorded at the time of the violation for the amount of the civil fine actually paid plus any consequential or compensatory damages and a reasonable attorney fee, without regard to the rules regarding joint and several liability, contribution, or indemnity. ..."

Section 15 provides that the provisions of the local Act are severable and that, therefore, if any part of the local Act is declared invalid or unconstitutional, the remaining parts will not be affected by the declaration.

The ordinance differs slightly from the local Act in that the ordinance provides for an administrative adjudicative process at the municipal level rather than in the municipal court. Section 27-603(a) of the ordinance provides that the municipal court administrator for the City is responsible for administering the ordinance. Section 27-604(a) provides that a person who receives a notice of violation may contest the imposition of the civil penalty by submitting a written request for a hearing on the adjudication of the civil violation within 15 days of the 10th day after the date the notice of violation is mailed. The administrative adjudication hearing would be held before a hearing officer appointed by

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the mayor. Section 27-604(b) provides that the failure to pay the civil penalty or to contest the liability in a timely manner is an admission of liability under the ordinance.

Section 27-604(i) provides as follows:

"A person who is found liable after an administrative adjudication hearing may appeal that finding of civil liability to the Circuit Court of Montgomery County, Alabama by filing a notice of appeal with the clerk of the municipal court. The notice of appeal must be filed not later than the 14th day after the date on which the administrative adjudication hearing officer entered the finding of civil liability. Unless the person, on or before the filing of the notice of appeal, posts a bond in the amount of the civil penalty and any late fees, an appeal does not stay the enforcement of the civil penalty. An appeal shall be determined by the circuit court by trial de novo."

C. Alabama Constitution

Section 89, Ala. Const. 1901, provides: "The legislature shall not have power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this state."

Section 104, Ala. Const. 1901, provides, in pertinent part:

"The legislature shall not pass a special, private, or local law in any of the following cases:

". . . .



"(14) Fixing the punishment of crime;

". . . .

"(19) Creating, extending, or impairing any lien . . . ."

Section 105, Ala. Const. 1901, provides:

"No special, private, or local law, except a law fixing the time of holding courts, shall be enacted in any case which is provided for by a general law, or when the relief sought can be given by any court of this state; and the courts, and not the legislature, shall judge as to whether the matter of said law is provided for by a general law, and as to whether the relief sought can be given by any court; nor shall the legislature indirectly enact any such special, private, or local law by the partial repeal of a general law."

#### Analysis

Before addressing the substantive issues raised in this appeal, we must first address the threshold issue of subject-matter jurisdiction. This Court has explained:

"This Court has often said that, as a general rule, it will not decide questions after a decision has become useless or moot. Ex parte McFry, 219 Ala. 492, 122 So. 641 (1929); Byrd v. Sorrells, 265 Ala. 589, 93 So. 2d 146 (1957); Chisolm v. Crook, 272 Ala. 192, 130 So. 2d 191 (1961); Jacobs Banking Company v. Campbell, 406 So. 2d 834 (Ala. 1981). Alabama courts do not give opinions in which there is no longer a justiciable controversy; yet, Alabama has recognized two exceptions to the mootness doctrine: questions of great

public interest and questions that are likely of repetition of the situation. Byrd v. Sorrells, supra, State ex rel. Eagerton v. Corwin, 359 So. 2d 767 (Ala. 1977).  
...'

"Arrington v. State ex rel. Parsons, 422 So. 2d 759, 760 (Ala. 1982).

""'A moot case or question is a case or question in or on which there is no real controversy; a case which seeks to determine an abstract question which does not rest on existing facts or rights, or involve conflicting rights so far as plaintiff is concerned.'" Case v. Alabama State Bar, 939 So. 2d 881, 884 (Ala. 2006) (quoting American Fed'n of State, County & Mun. Employees v. Dawkins, 268 Ala. 13, 18, 104 So. 2d 827, 830-31 (1958)). "The test for mootness is commonly stated as whether the court's action on the merits would affect the rights of the parties." Crawford v. State, 153 S.W.3d 497, 501 (Tex. App. 2004) (citing VE Corp. v. Ernst & Young, 860 S.W.2d 83, 84 (Tex. 1993)). "A case becomes moot if at any stage there ceases to be an actual controversy between the parties." Id. (emphasis added) (citing National Collegiate Athletic Ass'n v. Jones, 1 S.W.3d 83, 86 (Tex. 1999)).

""'There must be a bona fide existing controversy of a justiciable character to confer upon the court jurisdiction to grant declaratory relief under the declaratory judgment statutes, and if there was no justiciable controversy existing when the suit was commenced the trial court had no jurisdiction." State ex rel. Baxley v. Johnson, 293 Ala. 69, 73, 300 So. 2d 106, 110 (1974). ""'Unless the trial court has

before it a justiciable controversy, it lacks subject matter jurisdiction and any judgment entered by it is void ab initio."" Sustainable Forests, L.L.C. v. Alabama Power Co., 805 So. 2d 681, 683 (Ala. 2001) (quoting Hunt Transition & Inaugural Fund, Inc. v. Grenier, 782 So. 2d 270, 272 (Ala. 2000), quoting in turn Ex parte State ex rel. James, 711 So. 2d 952, 960 n. 2 (Ala. 1998)). "A moot case lacks justiciability." Crawford, 153 S.W.3d at 501. Thus, "[a]n action that originally was based upon a justiciable controversy cannot be maintained on appeal if the questions raised in it have become moot by subsequent acts or events." Case, 939 So. 2d at 884 (citing Employees of Montgomery County Sheriff's Dep't v. Marshall, 893 So. 2d 326, 330 (Ala. 2004)).

""The lack of a justiciable controversy may be raised either by a motion to dismiss, Rule 12, [Ala. R. Civ. P.], or a motion for summary judgment." Hornsby v. Sessions, 703 So. 2d 932, 937 (Ala. 1997) (quoting Smith v. Alabama Dry Dock & Shipbuilding Co., 293 Ala. 644, 649, 309 So. 2d 424, 427 (1975)). Indeed, "[i]t is well settled that lack of subject-matter jurisdiction can be raised at any time by the parties or by the court ex mero motu." Ex parte V.S., 918 So. 2d 908, 912 (Ala. 2005). ""[I]f there is an absence of jurisdiction over ... the subject matter, a court has no power to act, and jurisdiction over the subject matter cannot be created by waiver or consent."" Id. (quoting Flannigan v. Jordan, 871 So. 2d 767, 768 (Ala. 2003), quoting in turn Norton v. Liddell, 280 Ala. 353, 356, 194 So. 2d 514, 517 (1967)). A court without subject-matter jurisdiction "may take no

action other than to exercise its power to dismiss the action .... Any other action ... is null and void.'" State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1029 (Ala. 1999) (quoting Beach v. Director of Revenue, 934 S.W.2d 315, 318 (Mo. Ct. App. 1996))....'

"Chapman v. Gooden, 974 So. 2d 972, 983-84 (Ala. 2007). ...

"A declaratory-judgment action may be rendered moot.

"'Declaratory-judgment actions in Alabama are governed by the Declaratory Judgment Act, codified at §§ 6-6-220 through -232, Ala. Code 1975 ("the Act"). The Act does not "'empower courts to decide moot questions, abstract propositions, or to give advisory opinions, however convenient it might be to have these questions decided for the government of future cases.'" Stamps v. Jefferson County Bd. of Educ., 642 So. 2d 941, 944 (Ala. 1994) (quoting Town of Warrior v. Blaylock, 275 Ala. 113, 114, 152 So. 2d 661, 662 (1963)) (emphasis added in Stamps). Pursuant to § 6-6-226, declaratory relief may be afforded in cases "in which a judgment will terminate the controversy or remove the uncertainty," but § 6-6-229 emphasizes the corollary that "[t]he court may refuse to enter a declaratory judgment where such judgment, if entered, would not terminate the uncertainty or controversy giving rise to the proceeding."

"Bruner v. Geneva County Forestry Dep't, 865 So. 2d 1167, 1175 (Ala. 2003). See also Hunt Transition & Inaugural Fund, Inc. v. Grenier, 782 So. 2d 270, 272 (Ala. 2000) ('For a court to grant declaratory

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relief, it must have before it a bona fide, presently existing justiciable controversy that affects the legal rights or obligations of the parties.');

VanLoock v. Curran, 489 So. 2d 525, 531 (Ala. 1986) ('Indeed, moot questions are not properly the subject of declaratory judgment actions.' (citing City of Mobile v. Scott, 278 Ala. 388, 178 So. 2d 545 (1965)))."

Underwood v. Alabama State Bd. of Educ., 39 So. 3d 120, 127-28 (Ala. 2009). The parties have not addressed the justiciability of the issues presented. Because a trial court lacks subject-matter jurisdiction if there is no justiciable controversy, we address the issue ex mero motu.

In Woodgett v. City of Midfield, [Ms. 1180051, May 1, 2020] \_\_\_ So. 3d \_\_\_ (Ala. 2020) -- a case involving a virtually identical act and ordinance, the opinion in which is being released simultaneously with this opinion -- this Court concluded that the acceptance of liability under an automated camera-enforcement act and ordinance by payment of the civil violation, without raising a challenge to the act and ordinance within the time or in the manner provided for in the act and ordinance, settled the matter of the civil violation and mooted the controversy between the parties, which could not then be revived by filing a declaratory-judgment action challenging the act and ordinance. Because a justiciable

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controversy no longer existed between the parties, the trial court had no jurisdiction over the plaintiffs' subsequently filed declaratory-judgment action challenging the act and ordinance. City of Midfield, supra.

In this case, the plaintiffs each received notices of civil violations under the local Act and the ordinance after being photographed running a red traffic light in Montgomery. It appears that Hunter paid the fine and that Henderson did not pay the fine. It does not appear from the record that either challenged the legality of the civil violation issued pursuant to the local Act and the ordinance within the time and in the manner provided for in the local Act and the ordinance. Subsequently, the plaintiffs filed a declaratory-judgment action challenging the local Act and the ordinance. Based on this Court's reasoning in City of Midfield, supra, we conclude that no justiciable controversy existed between the parties at the time the plaintiffs filed their declaratory-judgment action and, therefore, that the circuit court lacked subject-matter jurisdiction over the matter. Hunter accepted liability under the local Act and the ordinance by paying the fine. Henderson, although he did not accept liability under

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the local Act and the ordinance by paying the fine, nonetheless accepted liability by taking no action to challenge the local Act and the ordinance within the time and in the manner provided for in the local Act and the ordinance. See § 6(c) of the local Act and § 27-604(b) of the ordinance quoted above. As was the case in City of Midfield, the plaintiffs' acceptance of liability under the local Act and the ordinance settled the matter and mooted the controversy between the parties. Because there was no justiciable controversy between the parties at the time the declaratory-judgment action was filed, the circuit court lacked subject-matter jurisdiction over the action, and it should have dismissed the action. City of Midfield, *supra*; Ex parte Blankenship, 893 So. 2d 303, 307 (Ala. 2004) ("Lacking subject matter jurisdiction [a court] may take no action other than to exercise its power to dismiss the action .... Any other action taken by a court lacking subject matter jurisdiction is null and void." (quoting State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1029 (Ala. 1999), quoting in turn Beach v. Director of Revenue, 934 S.W.2d 315, 318 (Mo. Ct. App. 1996))).

Conclusion

Accordingly, we reverse the circuit court's order denying the motion to dismiss, and we remand the case to that court for further proceedings consistent with this opinion.

REVERSED AND REMANDED.

Bryan, Sellers, and Stewart, JJ., concur.

Parker, C.J., and Mendheim, J., concur in the result.

Shaw, Wise, and Mitchell, JJ., recuse themselves.