THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Rockingham County | Rockingham Superior Court

Shawn Devine v Christopher T Sununu, et al

218-2020-CV-00602

ORDER

The plaintiff's motion for a preliminary injunction is DENIED.

To the extent that the plaintiff wishes the court to order the Salem School District to re-open its schools, and to compel the attendance of the Town's children, teachers and staff, until they have served out the full number of days that make up a school year: (a) The claim is moot, because the seniors have graduated and the school district is on summer recess, (b) the plaintiff has not shown a likelihood of success on the merits (for the reasons stated in the State's motion to dismiss), (c) the balance of equities and hardships strongly militates against the plaintiff and in favor of the defendants, and (d) the proposed preliminary injunction would be sharply contrary to the public interest.

To the extent that the plaintiff seeks other preliminary relief—and this is not entirely clear—the motion is denied because the plaintiff has not established the *sine qua non* for a preliminary injunction, i.e. a likelihood of success on the merits. See, Binford v. Sununu, 217-2020-CV-00152.

The court reserves ruling on the State's motion to dismiss because the plaintiff recently filed a motion to amend his complaint to assert new legal arguments. If the motion to amend is granted, the State shall file either an Answer or a motion to dismiss the amended complaint. If the motion to amend is denied, the court will then reach the pending motion to dismiss.

June 18, 2020

Andrew R. Schulman,
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 06/18/2020