

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No. 105-9-19 Vtec

TOWN OF PAWLET,

Plaintiff;

v.

DANIEL BANYAI,

Defendant.

MOTION FOR CIVIL CONTEMPT AND REQUEST FOR HEARING

NOW COMES the Town of Pawlet (“Town”), by and through its attorneys Woolmington, Campbell, Bent & Stasny, P.C., and hereby moves the Honorable Court to hold Defendant, Daniel Banyai, in contempt of this Court’s March 6, 2021 Judgment Order. The Town requests that the Court promptly convene an in-person contempt hearing, so that Mr. Banyai and other witnesses may be compelled to testify before the Court.

INTRODUCTION

This enforcement action was commenced in September 2019, alleging numerous violations of Pawlet’s Uniform Zoning Bylaws (“Bylaws”) with respect to Mr. Banyai’s property at 541 Briar Hill Road in West Pawlet, Vermont (“Property”). Throughout the proceeding, Mr. Banyai has made consistent efforts to delay a final judgment, and continues to attempt to delay and frustrate the Town’s efforts to bring the Property into compliance with the Bylaws. Not only has Mr. Banyai failed to comply with this Court’s Orders relating to the surveying and deconstruction of unpermitted structures on the

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Property, he has also intentionally used the unpermitted structures for the very purposes prohibited by the Court, and has invited media to document his violations of this Court's Order. Given that the Court has already imposed a significant penalty, it is clear that even more significant fines are necessary to address Mr. Banyai's intentional and flagrant disregard of the Court's Order. Further, given Mr. Banyai's failure to make good faith efforts to comply with the Court's Order, the Town seeks an order that would permit it to direct agents to complete the deconstruction efforts, with costs assessed against the landowner. Finally, the Town requests that the Court consider holding Mr. Banyai in criminal contempt should he continue to violate existing and future orders.

I. Mr. Banyai's Failure to Comply with Court Orders

A Merits Hearing was held on December 16, 2020. On January 4, 2021, the Town filed a Motion for Preliminary Injunction. The Court granted the Town's motion and issued an Order on January 21, 2021 stating that ". . . [D]efendant shall not conduct or permit to be conducted any school and/or firearms training related activities on the Property situated at 541 Briar Hill Road, nor host classes of any type on the Property from the receipt of the order, until further order by this Court." Preliminary Injunction, p. 2. In a March 6, 2021 Decision on the Merits, the Court concluded that "the Preliminary Injunction Order must be made permanent, given that Mr. Banyai has no legal authority to construct the buildings or conduct the uses that he has done on his property." Decision on Merits, at p. 15 ¶ 3. The Court ordered Mr. Banyai to "immediately begin and complete the deconstruction and removal of all buildings on his property that have not be[en] authorized by a valid zoning permit."

The March 6, 2021 Order required Mr. Banyai to hire a Vermont-licensed surveyor and to submit a contract for services within 30 days of the Order. Order, at p. 1, ¶ 4. Mr. Banyai has failed to do so. Although Mr. Banyai has asked for additional time to appeal and has sought clarification with respect to the surveying requirements, he has not made any good faith efforts to comply with any aspect of the Order. In his motion to enlarge time to appeal, for example, Mr. Banyai presented no evidence as to his efforts to secure legal counsel. This issue was noted in the Court's Order granting the motion, yet in seeking clarification as to surveying requirements, Mr. Banyai again failed to supply any evidence that he has made efforts to hire a surveyor. While continuing to make efforts to delay finality in the Court proceedings, Mr. Banyai simultaneously invited the media to the Property to film his intentional violation of this Court's Orders.

II. Mr. Banyai's Intentional Violation of Court Orders

Although Mr. Banyai's Slate Ridge Facebook is no longer active, his other social media accounts on Instagram and Twitter have advertised a Second Amendment Picnic event to take place on the Property on April 17, 2021. Such event did take place. The event itself is not objectionable, however Mr. Banyai and his invitees engaged in activities that were expressly prohibited by the Court's Orders. They also filmed and photographed it.

Among other social media posts, PCP Media uploaded a video to YouTube¹ on April 17, 2021 entitled *Slate Ridge Picnic* with the following description:

On April 17, 2021, a month after the Pawlet, VT government told

¹ The video is currently available online, however in the event the link becomes inactive, the Town can supply a copy of the video.

Daniel Banyai to tear down his facility [sic] we joined his picnic in which upwards of 50 or [sic] attendees at a time were present.

I interviewed and photographed several people.

I was not the only media present as AP, NYT, and Fox were there but I was given exclusive rights to video record.

The people were friendly, talkative although some were camera shy.

The event was relaxed and despite the bad weather, everyone was in a good mood.

Many people also shot pistols and rifles on range 1.

[Range Safety Officer's] were present to maintain safety while the range was hot.

<https://www.youtube.com/watch?v=UGVPNAks32Y>

In the opening of the video, interviewer Adam McLain, states: “[T]he range has been legally shut down. [Banyai] was legally supposed to tear everything down. And I can tell ya, ain’t nothing been torn down, so that’s pretty, pretty awesome that we have some very civil disobedience going on.” PCP Media Youtube Video, at 0:00:37.

In the video, firearms-related vendors are engaging in commercial activity, including a dealer called “Armory Barn.” PCP Media Youtube Video, at 0:01:41. Another individual interviewed by PCP Media—purportedly the Vermont State Militia founder and spokesperson—stated that his organization was “looking for places where we can train in a reality based setting,” and has used Slate Ridge as their training site for the last 12-18 months. PCP Media YouTube Video, at 0:07:36.

Mr. Banyai was also interviewed, stating: “[W]e lost in the Vermont Superior Court The Judge deemed that my permit for the school was null and void so he

voided the permit. Um, he was nice enough to give me the \$400 back for the permitting fee.” PCP Media YouTube Video, at 0:16:03.

PCP Media also uploaded photos taken at the April 17, 2021 event at Slate Ridge to its website. Examples of the photos are filed herewith as Exhibit A.

CONCLUSION AND REQUEST FOR RELIEF

In sum, Mr. Banyai has: (1) failed to timely comply with this Court’s Orders relating to surveying and demolition; and (2) intentionally and flagrantly violated the March 6, 2021 Order by continuing to allow firearms training on the property and the ongoing use of unpermitted structures, including ranges. Mr. Banyai also has not paid the fines assessed by the Court.²

The Court’s March 6, 2021 Decision on the Merits indicated that, should Mr. Banyai ignore the Court’s directives, an order permitting the Town to enter the Property to dismantle the structures could be warranted. Similarly, the Court indicated that the amount of the daily fine could be increased to \$200.00 in the event that Mr. Banyai showed contempt for the Court’s decision. Mr. Banyai has roundly demonstrated that a Court Order is not enough to compel him to conform his conduct to legal and community standards.

WHEREFORE, the Town respectfully requests that the Court promptly convene an in-person hearing (with sufficient time to subpoena witnesses) and:

A. Find Defendant in contempt of its March 6, 2021 Judgment Order;

B. Issue an Order permitting the Town to enter the Property to dismantle the

² Mr. Banyai also continues to not provide a copy of his filings to the Town’s legal counsel, in spite of repeated reminders from the Court, which imposes an unnecessary burden on the Court’s staff in order to efficiently ensure that the Town has an opportunity to respond.

unpermitted structures, with the costs of such work imposed as a lien upon the Property;

- C. Impose a daily fine in the amount of \$200.00 from March 6, 2021 until the Property is brought into compliance, with such fine constituting a lien upon the Property upon filing in the Pawlet Land Records.

Dated at Manchester, VT this 21st day of April, 2021.

/s/Merrill E. Bent

Merrill E. Bent, Esq.

Woolmington, Campbell, Bent & Stasny, P.C.

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EXHIBIT A

SLATE RIDGE PICNIC 17APRIL21



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CERTIFICATE OF SERVICE

I, Merrill E. Bent, Esq., hereby certify that on the 21st day of April, 2021, I served the Town of Pawlet's Motion for Civil Contempt and Request for Hearing by first-class mail, postage pre-paid to Daniel Banyai, Defendant, at his last known address of: 541 Briar Hill Road, West Pawlet, VT 05775

Dated at Manchester, VT this 21st day of April 2021.

/s/Merrill E. Bent

Merrill E. Bent, Esq.

Woolmington, Campbell, Bent & Stasny, P.C.

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