

STATE OF MICHIGAN
COURT OF APPEALS

JEWISH ACADEMY OF METROPOLITAN
DETROIT,

UNPUBLISHED
June 16, 2009

Plaintiff-Appellee,

v

MICHIGAN HIGH SCHOOL ATHLETIC
ASSOCIATION,

No. 283885
Oakland Circuit Court
LC No. 2004-058811-CZ

Defendant-Appellant,

and

SOUTHFIELD CHRISTIAN, INKSTER PUBLIC
SCHOOLS, FRANKLIN ROAD CHRISTIAN and
OAKLAND CHRISTIAN,

Defendants.

Before: Borrello, P.J., and Talbot and Stephens, JJ.

PER CURIAM.

Defendant, Michigan High School Athletic Association (“defendant”), appeals as of right the order of the trial court granting equitable relief to plaintiff. On appeal, defendant argues that the trial court lacked subject matter jurisdiction to grant plaintiff’s request for an injunction and attorney fees as remedies for defendant’s alleged violations of the Civil Rights Act, MCL 37.2401 *et seq.*, and plaintiff’s Michigan and United States Constitutional rights. Plaintiff’s claim is premised upon allegations that defendant discriminated against plaintiff when it scheduled athletic tournaments on Saturdays, the Jewish Sabbath, and on Jewish holidays. We affirm.

There is no special preservation requirement for a challenge to a court’s subject matter jurisdiction, and the challenge may be raised for the first time on appeal. *McFerren v B & B Investment Group*, 233 Mich App 505, 511-512; 592 NW2d 782 (1999). The issue of whether a trial court has subject matter jurisdiction over a claim is a question of law that this Court reviews de novo. *Harris v Vernier*, 242 Mich App 306, 309; 617 NW2d 764 (2000). “Also, the interpretation and application of a statute is a question of law reviewed de novo by an appellate court.” *Wayne County Treasurer v Westhaven Manor Limited Dividend Housing Ass’n*, 265

Mich App 285, 290; 698 NW2d 879 (2005), citing *Parkwood Ltd Dividend Housing Assn v State Housing Dev Auth*, 468 Mich 763, 767; 664 NW2d 185 (2003).

“In general, subject matter jurisdiction has been defined as a court’s power to hear and determine a cause of action.” *Wayne Co Treasurer, supra* at 291, citing *Bowie v Arder*, 441 Mich 23, 36; 490 NW2d 568 (1992). Further, as our Supreme Court explained in *Bowie*:

[J]urisdiction over the subject matter is the right of the court to exercise judicial power over that class of cases; not the particular case before it, but rather the abstract power to try a case of the kind or character of the one pending; and not whether the particular case is one that presents a cause of action, or under the particular facts is triable before the court in which it is pending, because of some inherent facts which exist and may be developed during the trial. [*Bowie, supra* at 39, quoting *Joy v Two-Bit Corp*, 287 Mich 244, 253; 283 NW 45 (1938).]

However, this Court has recognized that, “[w]hen a court is called on to decide an issue over which it has no subject-matter jurisdiction, the court’s only recourse is to dismiss the case; any other action is void.” *Attorney General v Ambassador Ins Co*, 166 Mich App 687, 696; 421 NW2d 271 (1988), quoting *DAIIE v Maurizio*, 129 Mich App 166, 171-172; 341 NW2d 262 (1983).

In interpreting a statute, the fundamental task of a court is to “discern and give effect to the Legislature’s intent as expressed in the words of the statute.” *Pohutski v City of Allen Park*, 465 Mich 675, 683; 641 NW2d 219 (2002). Where the plain and ordinary meaning of the statutory language is clear, further judicial construction is unwarranted. *Nastal v Henderson & Assocs Investigations, Inc*, 471 Mich 712, 720; 691 NW2d 1 (2005). See also, *DiBenedetto v West Shore Hosp*, 461 Mich 394, 402; 605 NW2d 300 (2000). Judicial construction of a statute is proper only where reasonable minds could differ about the meaning of the statute. *Adrian School District v Michigan Public School Employees Retirement System*, 458 Mich 326, 332; 582 NW2d 767 (1998). This Court accords to every word or phrase of a statute its plain and ordinary meaning, unless a term has a special, technical meaning, or is defined in the statute. *Sun Valley Foods Co v Ward*, 460 Mich 230, 237; 596 NW2d 119 (1999).

We observe that defendant articulated the sole question presented for our review as follows:

Did the Circuit Court have subject matter jurisdiction to enter the injunction and relief requested in this litigation?

“Circuit courts of this state have subject matter jurisdiction to issue declaratory rulings, injunctions, or writs of mandamus.” Const 1963, art 6, § 3; MCL 600.605; *Citizens for Common Sense In Government v Attorney General*, 243 Mich App 43, 50; 620 NW2d 546 (2000). Further, MCL 37.1606 provides, in pertinent part:

(1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, or for the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(3) As used in subsection (1), “damages” means damages for injury or loss caused by each violation of this act, including reasonable attorneys’ fees.

On the basis of this authority, we conclude that the trial court had subject matter jurisdiction under the Michigan Constitution, MCL 37.1606(1), MCL 37.1606(2), and MCL 600.605 to grant an injunction, and subject matter jurisdiction under the plain language of the Civil Rights Act, MCL 37.1606(3), to grant the attorney fees requested by plaintiff.

To the extent that defendant argues that the trial court otherwise improperly granted the injunction, defendant has waived these arguments by failing to include them as issues in its statement of the questions presented. *Caldwell v Chapman*, 240 Mich App 124, 132; 610 NW2d 264 (2000). Furthermore, this Court should abstain from deciding constitutional questions where, as here, the case can be decided on other grounds. *J & J Const Co v Bricklayers & Allied Craftsmen Local 1*, 468 Mich 722, 734; 664 NW2d 728 (2003). Accordingly, we decline to discuss defendant’s arguments further.

Affirmed.

/s/ Stephen L. Borrello
/s/ Michael J. Talbot
/s/ Cynthia Diane Stephens