

SUPREME COURT OF ILLINOIS

Walker v. McGuire

2015 IL 117138 (Ill. 2015) · No. 117138 · Decided October 30, 2015

SUMMARY

The Illinois Supreme Court considered whether a \$50 residential mortgage foreclosure filing fee, including a 2% portion retained by circuit court clerks, violated the Illinois Constitution's prohibition on fee officers in the judicial system. The court held that circuit court clerks are nonjudicial officers and therefore do not fall within that prohibition, reversed the trial court's facial invalidation of the statute, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Theis; Chief Justice Garman; Justice Freeman; Justice Thomas; Justice Kilbride; Justice Karmeier; Justice Burke
JURISDICTION	Illinois
DECIDED	October 30, 2015
DOCKET	117138
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State directly appealed under Illinois Supreme Court Rule 302(a) (1) from an interlocutory final order declaring an Illinois foreclosure filing-fee statute facially unconstitutional. Walker cross-appealed regarding the scope of the trial court's ruling and asserted alternative constitutional grounds.
STANDARD OF REVIEW	Constitutionality of a statute is reviewed de novo. Statutes are presumed constitutional, and the challenger must clearly establish invalidity. Constitutional provisions are construed according to their common understanding, including the natural and popular meaning of their words and the object to be attained or evil to be remedied.
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; precedential
PARTIES	The People of the State of Illinois ex rel. Lisa Madigan, Attorney General of Illinois v. Reuben D. Walker, Pamela J. McGuire, Clerk of the Circuit Court of Will County

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether circuit court clerks are fee officers within the meaning of article VI, section 14, of the Illinois Constitution.
2. Whether section 15-1504.1 of the Illinois Code of Civil Procedure is unconstitutional because it authorizes circuit court clerks to retain 2% of the foreclosure filing fee for administrative expenses.
3. Whether the trial court properly limited its constitutional ruling to the preamendment version of section 15-1504.1.
4. Whether the court should address Walker's alternative constitutional challenges to the foreclosure filing-fee statute and related Foreclosure Prevention Program.

HOLDINGS

1. Circuit court clerks are not fee officers prohibited by article VI, section 14, because they are nonjudicial officers who perform clerical and administrative functions rather than adjudicative or quasi-judicial functions.
2. Section 15-1504.1 does not create an impermissible fee office under article VI, section 14, because the circuit court clerk is not a prohibited judicial fee officer.
3. The trial court properly limited its ruling to the version of section 15-1504.1 in effect when Walker filed his complaint; briefing the statutory amendments did not amend the complaint or place the amended statutes before the court.

KEY QUOTATIONS

“We think it evident that the 1964 fee officer prohibition and, by extension, the 1970 fee officer prohibition, were aimed at officers who (1) had a direct role in the adjudicative process of the court system, and (2) were compensated for their services through the payment of fees taxed to the litigants.” (¶ 27)

“Although clerks of the circuit courts are officers of the judicial branch of government, they are, as plaintiff necessarily concedes, nonjudicial officers.” (¶ 30)

“For the reasons stated, we reverse the order of the trial court which found section 15-1504.1 of the Code facially unconstitutional under article VI, section 14 of the Illinois Constitution, and remand this matter to the trial court for further proceedings.” (¶ 44)

FACTUAL BACKGROUND

Walker filed a mortgage foreclosure action in Will County and was required to pay the \$50 residential foreclosure filing fee imposed by section 15-1504.1 of the Illinois Code of Civil Procedure. The statute directed 98% of the fee to the State Treasurer for the Foreclosure Prevention Program Fund and 2% to the circuit court clerk for administrative expenses. Walker challenged the fee and related program on multiple constitutional grounds, including the Illinois Constitution's prohibition on fee officers in the judicial system.

PROCEDURAL HISTORY

Walker filed a putative class action challenging the constitutionality of the \$50 residential mortgage foreclosure filing fee under 735 ILCS 5/15-1504.1 and the Foreclosure Prevention Program under 20 ILCS 3805/7.30. The circuit court certified plaintiff and defendant classes, allowed the State to intervene, denied the State's section 2-615 motion to dismiss, and granted Walker partial summary judgment, holding that the statute violated the judicial fee officer prohibition in article VI, section 14, of the Illinois Constitution. The State appealed directly to the Illinois Supreme Court, which reversed and remanded; the court declined to address Walker's alternative constitutional arguments.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the circuit court's order declaring section 15-1504.1 facially unconstitutional under article VI, section 14, of the Illinois Constitution, and remand for further proceedings.

CASES CITED

- People v. Melongo, 2014 IL 114852, ¶ 20
- People v. Mosley, 2015 IL 115872, ¶ 22
- Marks v. Vanderverter, 2015 IL 116226
- County of Kane v. Carlson, 116 Ill. 2d 186, 200 (1987)
- Drury v. County of McLean, 89 Ill. 2d 417, 422-23 (1982)
- People ex rel. Chicago Bar Ass'n v. State Board of Elections, 136 Ill. 2d 513, 526 (1990)
- Kanerva v. Weems, 2014 IL 115811, ¶ 36
- Glisson v. City of Marion, 188 Ill. 2d 211, 225 (1999)
- Committee for Educational Rights v. Edgar, 174 Ill. 2d 1, 13 (1996)
- Bottom v. City of Edwardsville, 308 Ill. 68, 73 (1923)
- Hards v. Burton, 79 Ill. 504, 509 (1875)
- Schuringa v. City of Chicago, 30 Ill. 2d 504, 507, 518-19 (1964)
- Dineff v. Wernecke, 27 Ill. 2d 476, 477-78 (1963)
- Maley v. Burns, 6 Ill. 2d 11, 12-13 (1955)
- Montgomery v. Downey, 17 Ill. 2d 451, 459 (1959)

- Fitchburg Steam Engine Co. v. Potter, 211 Ill. 138, 153-54 (1904)
- McFail v. Braden, 19 Ill. 2d 108, 121 (1960)
- Eberle v. Greene, 18 Ill. 2d 322, 329 (1960)
- Grace v. Howlett, 51 Ill. 2d 478, 481 (1972)
- Reed v. Farmers Insurance Group, 188 Ill. 2d 168, 181 (1999)
- Anderson v. Anderson, 42 Ill. App. 3d 781, 786-87 (1976)
- Petraski v. Thedos, 2011 IL App (1st) 103218, ¶ 140
- Kerbes v. Raceway Associates, LLC, 2011 IL App (1st) 110318, ¶ 14
- Hearne v. Illinois State Board of Education, 185 Ill. 2d 443, 454 (1999)
- Trent v. Winningham, 172 Ill. 2d 420, 425 (1996)