

SUPREME COURT OF ILLINOIS

People v. McClure

218 Ill. 2d 375 (Ill. 2006) · No. 100321 · Decided January 20, 2006

SUMMARY

The Illinois Supreme Court held that the one-year savings provision in section 13-217 of the Illinois Code of Civil Procedure applies to petitions seeking rescission of a statutory summary suspension under section 2-118.1(b) of the Illinois Vehicle Code. A driver who voluntarily withdraws a timely rescission petition may therefore refile it within one year, even after the original 90-day filing period. The court affirmed the appellate court and overruled *People v. Rodriguez*.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Fitzgerald; Chief Justice Thomas; Justice Freeman; Justice McMorrow; Justice Kilbride; Justice Garman; Justice Karmeier
JURISDICTION	Illinois
DECIDED	January 20, 2006
DOCKET	100321
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed by permission from an appellate court judgment reversing the Tazewell County circuit court's dismissal of McClure's second petition to rescind his statutory summary suspension as untimely.
STANDARD OF REVIEW	De novo review applied because the issue presented was a question of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The People of the State of Illinois v. Joseph E. McClure

TOPICS

- statutory interpretation
- civil procedure
- statute of limitations
- appellate procedure
- standard of review

PRACTICE AREAS

- Illinois criminal procedure
- motor vehicle law
- statutory summary suspension
- statutory interpretation

QUESTIONS PRESENTED

1. Whether section 13-217 of the Illinois Code of Civil Procedure tolls or extends the ninety-day filing period in section 2-118.1(b) of the Illinois Vehicle Code when a motorist voluntarily withdraws a petition to rescind a statutory summary suspension.
2. Whether statutory summary-suspension hearings are civil proceedings subject to the Illinois Code of Civil Procedure.
3. Whether the doctrine of laches barred McClure's second rescission petition.

HOLDINGS

1. Section 13-217 of the Illinois Code of Civil Procedure applies to a petition to rescind a statutory summary suspension because section 2-118.1(b) of the Vehicle Code requires such proceedings to proceed in the same manner as other civil proceedings. A motorist who timely files and voluntarily withdraws a rescission petition may refile it within the one-year savings period.
2. Hearings arising from statutory summary suspensions are civil proceedings subject to the rules of the Illinois Code of Civil Procedure, even though the suspension itself is an administrative function of the Secretary of State.
3. *People v. Rodriguez* was overruled because section 2-118.1(b) is not ambiguous merely because it contains both a ninety-day limitations period and a provision requiring proceedings to follow civil procedures.
4. Laches did not bar McClure's petition because the record did not establish either a lack of due diligence or prejudice to the State.

KEY QUOTATIONS

“Thus, under the plain language of the statute, the legislature mandated that summary suspension hearings are civil in nature and, accordingly, must be subject to the provisions of the Code of Civil Procedure.” (at 385)

“We do not find that an ambiguity exists in section 2B118.1(b), and thus overrule Rodriguez.” (at 390)

“While allowing motorists to withdraw rescission petitions only to refile them months later pursuant to section 13B217 of the Code of Civil Procedure appears to thwart this goal, we nevertheless are bound by the language of the statute.” (at 390)

FACTUAL BACKGROUND

McClure was arrested for driving under the influence and his driver's license was summarily suspended after he failed to submit to chemical testing. He filed a petition to rescind the suspension within ninety days, but voluntarily withdrew it before a hearing. After the DUI charge was amended to reckless driving and he pleaded guilty, McClure filed a second rescission petition more than ninety days after notice of the suspension but within one year after withdrawing the first petition.

PROCEDURAL HISTORY

McClure initially filed a petition to rescind his statutory summary suspension within the statutory ninety-day period, but voluntarily withdrew it before a hearing. He filed a second petition more than ninety days after notice of the suspension but within one year of withdrawing the first petition. The circuit court struck the second petition as untimely under *People v. Rodriguez*. The appellate court reversed, and the Illinois Supreme Court affirmed the appellate court and remanded for further proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The matter was remanded for further proceedings consistent with the appellate court's judgment reversing the trial court's dismissal.

CASES CITED

- *People v. Moore*, 138 Ill. 2d 162, 166-70 (1990)
- *People v. Schaefer*, 154 Ill. 2d 250, 255-57 (1993)
- *People v. Cosenza*, 215 Ill. 2d 308, 313 (2005)
- *People v. Ramirez*, 214 Ill. 2d 176, 179 (2005)
- *People v. Donoho*, 204 Ill. 2d 159, 171 (2003)
- *People v. Martinez*, 184 Ill. 2d 547, 550 (1998)
- *People v. Roberts*, 214 Ill. 2d 106, 116 (2005)
- *People v. Jones*, 214 Ill. 2d 187, 193 (2005)
- *People v. Robinson*, 217 Ill. 2d 43, 53-54 (2005)
- *People v. Kaegelbein*, 137 Ill. App. 3d 837, 839 (1985)
- *People v. Farrell*, 158 Ill. App. 3d 690, 691-92 (1987)
- *People v. Sargeant*, 165 Ill. App. 3d 10, 13 (1987)
- *People v. Ullrich*, 328 Ill. App. 3d 811, 816-18 (2002)
- *People v. Flynn*, 197 Ill. App. 3d 13, 17 (1990)
- *People v. Filitti*, 190 Ill. App. 3d 884, 886 (1989)
- *People v. Stice*, 168 Ill. App. 3d 662, 664 (1988)
- *People v. Holmes*, 268 Ill. App. 3d 802, 805-07 (1994)
- *People v. Rodriguez*, 339 Ill. App. 3d 677, 682-85 (2003)
- *People v. Pullen*, 192 Ill. 2d 36, 42 (2000)
- *People v. Wells*, 182 Ill. 2d 471, 490 (1998)