

STATE OF MICHIGAN  
COURT OF APPEALS

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JEREMY PHILLIP JONES,

Plaintiff-Appellant,

v

SECRETARY OF STATE,

Defendant-Appellee.

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UNPUBLISHED

April 26, 2002

No. 230399

Wayne Circuit Court

LC No. 99-924869-AL

Before: Cooper, P.J., and Hood and K.F. Kelly, JJ.

PER CURIAM.

Plaintiff appeals by right the circuit court's September 22, 2000 order reinstating defendant's revocation of his driver's license. This case arose when plaintiff petitioned the circuit court to fully reinstate his revoked driver's license. We affirm.

Plaintiff first contends that the circuit court lacked authority to modify defendant's revocation of his driver's license. Rather, plaintiff claims that the circuit court was limited to either affirming or setting aside the revocation, pursuant to MCL 257.323(6).<sup>1</sup> We disagree. The interpretation of a statute is a question of law that is reviewed de novo on appeal. *MacKenzie v Wales Twp*, 247 Mich App 124, 127; 635 NW2d 335 (2001). Because plaintiff failed to properly preserve this issue, our review is limited to plain error affecting his substantial rights. *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000).

Plaintiff's driver's license was revoked by defendant under MCL 257.303, MCL 257.320, and MCL 257.904. According to MCL 257.320e(6), judicial review of licensing sanctions under § 303 is controlled by the law in effect at the time the offense was committed. Section 320e(6) further provides that licensing sanctions originating from convictions committed or attempted after January 1, 1992 are governed by the laws in effect after January 1, 1992.

The offense that led to plaintiff's license being revoked under § 303 occurred in 1990. According to § 323(3), as it existed in 1990, a trial court had broad discretion when reviewing a

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<sup>1</sup> We note that 1994 PA 449, as amended by 1998 PA 346, MCL 257.323, deleted subsection six and incorporated it substantively into subsection four.

Secretary of State's determination and could "affirm, modify, or set aside the . . . revocation" imposed.<sup>2</sup> Therefore, the circuit court was not limited by the current restrictions governing § 303 revocations.

Moreover, plaintiff's license was also revoked by defendant under § 320 and § 904. Plaintiff received his § 320 revocation for 1989 offense and received his original § 904 revocation for a 1990 offense. While other portions of § 323 were amended between 1989 and 1990, the pertinent sections concerning § 320 and § 904 revocations remained the same and permitted courts to "affirm, modify, or set aside the . . . revocation" ordered by the Secretary of State. See MCL 257.323(3), as amended by 1982 PA 310, effective March 30, 1983; MCL 257.323(3), as amended by 1988 PA 346, effective January 1, 1990. Moreover, the court's broad discretion to affirm, modify, or set aside § 320 and § 904 revocations remained essentially unchanged at the time of the circuit court hearing in September 1999. Thus, the circuit court clearly had the authority to modify defendant's rulings and was not restricted to merely affirming or setting aside defendant's decisions.

Further, unlike a suspension, the revocations imposed on plaintiff's driver's license are not temporary, but are considered indefinite. See MCL 257.52; MCL 257.66. Each of the revocations on plaintiff's driving record contains the words "until approved" and there is no evidence that he ever eliminated these revocations from his record. Indeed, the Kalamazoo Circuit Court's order granting plaintiff a restricted license was voided when he failed to comply with its terms. According to the order, plaintiff's previous revocations were reinstated when he violated his restricted license. Thus, the revocations were in effect when plaintiff petitioned and appeared before the Wayne Circuit Court in the instant case.

Plaintiff next argues that the circuit court lacked subject matter jurisdiction. Specifically, plaintiff claims that the circuit court lost jurisdiction when it issued an order granting him an unrestricted license on March 27, 2000. We disagree. "[W]hether the trial court has subject-matter jurisdiction over a claim is a question of law that this Court reviews de novo." *Genesis Center PLC v Financial & Ins Services Comm'r*, 246 Mich App 531, 540; 633 NW2d 834 (2001). Circuit courts are courts of equity and are presumed to have jurisdiction over a case unless the subject matter is specifically excluded by law. See *Bowie v Arder*, 441 Mich 23, 37-38; 490 NW2d 568 (1992); *City of Marshall v Consumers Power Co (On Remand)*, 206 Mich App 666, 680; 523 NW2d 483 (1994).

The Legislature has explicitly granted circuit courts the jurisdiction to review Secretary of State determinations of driver's license revocations. MCL 257.323. In the present case, plaintiff petitioned the circuit court for an equitable restoration of his driver's license on August 9, 1999. A hearing was held on September 19, 1999, and the circuit court denied plaintiff's request for full restoration of his driver's license and exercised its equitable powers to grant him

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<sup>2</sup> Plaintiff incorrectly cites the version of § 323 that was in existence at the time he filed his petition for restoration of his driver's license. However, when plaintiff committed his offense in 1990, the 1988 amendments of § 323 (1988 PA 346) were operative. We further note that the Legislature did not limit the circuit court's review of § 303 revocations until § 323 was amended in 1992 pursuant to 1991 PA 99.

a restricted license. On March 24, 2000, the circuit court reviewed plaintiff's petition and granted him an unrestricted license with the caveat that he return in six months to inform the court of his progress. The circuit court's order on March 27, 2000 specifically stated that plaintiff's driving privileges were reinstated without restrictions and that he was to reappear before the court on September 22, 2000. When plaintiff failed to reappear for the hearing, the circuit court issued an order rescinding his driving privileges and reinstating the revocations previously imposed by defendant. A bench warrant for plaintiff's arrest was also included in the order for his failure to appear at the hearing, but was later dismissed.

After a careful review of the record, we find that the circuit court retained jurisdiction over plaintiff's license and that it had the authority to reinstate the revocations. Contrary to plaintiff's contention, there is no evidence that the September 22, 2000 hearing was a criminal contempt proceeding. Indeed, the bench warrant that was issued for plaintiff's absence was later rescinded. Furthermore, the circuit court's order on March 27, 2000, specifically stated that plaintiff must return on September 22, 2000. This order and the circuit court's comments during the hearing clearly expressed its intent to retain jurisdiction over plaintiff's license. When plaintiff failed to appear for the hearing he failed to fulfill the necessary requirements to acquire a completely unrestricted license and the revocations returned to their full force and effect. Moreover, plaintiff resided in Wayne County when the present case was filed, giving the Wayne Circuit Court jurisdiction over the case. MCL 257.323(1).

Plaintiff raises three more unpreserved issues. Because plaintiff has failed to present any plain error, we decline to review these claims. *Kern, supra* at 336. However, we note that the revocation of a driver's license by defendant is an administrative action and is not considered punishment for the purposes of double jeopardy. See *Dep't of Consumer & Industry Services v Greenberg*, 231 Mich App 466, 470-471; 586 NW2d 560 (1998); *Matheson v Secretary of State*, 170 Mich App 216, 220-221; 428 NW2d 31 (1988). Further, the circuit court did not revoke plaintiff's license but merely reinstated the revocations previously imposed by defendant. Because defendant has the statutory authority to regulate and revoke Michigan driver's licenses, the constitutional separation of powers was not violated. MCL 257.202; MCL 257.204. Moreover, given plaintiff's notice of the September 22, 2000 hearing and the important government interest in protecting the public from individuals who drive while intoxicated, we find no evidence to support plaintiff's claim that he was denied due process or equal protection of the law.

Affirmed.

/s/ Jessica R. Cooper  
/s/ Harold Hood  
/s/ Kirsten Frank Kelly