



ILLINOIS STATE POLICE
Office of the Director

JB Pritzker
Governor

Brendan F. Kelly
Director

February 28, 2020

The Honorable JB Pritzker
Governor of Illinois
207 State House
Springfield, Illinois 62706

Dear Governor Pritzker:

In accordance with 430 ILCS 65/11, a report listing “all final decisions by a court of this State upholding, reversing, or reversing in part, any administrative decisions made by the Department of State Police” concerning the Firearm Owners Identification (FOID) Card Act must be submitted to you and the General Assembly. The Illinois State Police (ISP) received 37 relevant decisions from the Illinois courts during calendar year 2019, with respect to FOID card litigation. Enclosed is a summary of those cases, including information regarding two cases that remain pending on appeal.

Please feel free to contact me should you have any questions pertaining to this information.

Very respectfully,

Brendan F. Kelly
Director

Enclosure

cc: Minority Leader William E. Brady
Minority Leader James Durkin
President Don Harmon
Speaker Michael J. Madigan

ILLINOIS STATE POLICE
Firearm Owners Identification Card Act – Report of Court Decisions
430 ILCS 65/11(c)

Petitions for Relief Brought Under 430 ILCS 65/10

In 37 relevant cases, the petitioner sought relief from the relevant firearm prohibition and/or an order directing ISP to issue a FOID card in the Circuit Court under the provisions of 430 ILCS 65/10, although several were incorrectly styled as complaints for administrative review. One case sought a writ of mandamus. Of the Section 10 cases, the court denied or dismissed the petitioner's request for issuance of a FOID card in 25 instances. One case remains pending on plaintiff's appeal.

Deante Allison v. Illinois State Police, Firearm Services Bureau -- Mr. Allison admitted to drug use on May 25, 2018. His FOID card was revoked as issuance is contrary to federal law. Mr. Allison filed a Complaint in Cook County seeking relief. On January 15, 2019, the Court dismissed for want of prosecution. ISP decision upheld.

William H. Dahl v. Stewart Umholtz, Tazewell County State's Attorney -- William Dahl was convicted of Theft in 1977, and Interstate Transportation of Stolen Goods in 1980. As a result, his FOID card was revoked, and subsequent applications were denied. On June 5, 2014, Tazewell County entered an Order directing ISP to issue a FOID card to Mr. Dahl. ISP filed a petition to intervene and opposed the grant of relief. The Order was vacated. On October 23, 2019, Mr. Dahl voluntarily dismissed this action. ISP decision upheld.

Alfred Evans, Jr. v. Illinois State Police, Lisa Madigan, and Cook County State's Attorney Kim Foss -- Alfred Evans was convicted of Manufacture/Delivery of 15+ Grams Cocaine/Analog and Manufacture/Delivery of a Controlled Substances in 1994. His FOID card application was denied as issuance is contrary to federal law. He filed a Complaint for Administrative Review in Cook County seeking relief. On November 21, 2018, an Order denied Mr. Evan's petition. ISP decision upheld. Mr. Evans's appeal remains pending.

Michael Keith Fore v. Illinois State Police -- Michael Keith Fore was convicted of Manufacture/Delivery of Controlled Substances Class 3 in 1988; Possession of a Controlled Substance in 1989; Possession of a Controlled Substance Class 1 in 1992; Dealing Marijuana/Hashish in 1998; Possession of a Controlled Substance Class 4 in 2004 and 2005, and December 8, 2005; and Drug Paraphernalia Sale Class 4 in 2005. His FOID card was revoked as issuance is contrary to federal law. He filed a Petition in Coles County seeking relief. On November 1, 2019, the case was dismissed with prejudice. ISP decision upheld.

Bryce A. Frenell v. Leo P. Schmitz, Illinois State Police -- Bryce Frenell's FOID card was revoked due to a finding of clear and present danger pursuant to 430 ILCS 65/8(f). An administrative hearing was held on March 16, 2017, and relief was denied. Mr. Frenell filed a Complaint for Administrative Review in Knox County seeking relief. On January 24, 2019, Knox County dismissed the case without prejudice. ISP decision upheld.

Michael Gardner v. State of Illinois and Director of Illinois State Police -- Michael Gardner was convicted of Possession of a Controlled Substance in 1994 and again in 1995. His FOID card application was denied as issuance is contrary to federal law. He filed two petitions in Cook County seeking relief. One petition was dismissed as untimely, and Plaintiff appealed. The second petition

was denied on the merits. The appeals court held the case was moot in light of the denial of the second petition. ISP decision upheld.

Joshua Gholston-Watson v. Illinois State Police, Firearms Services Bureau -- Joshua Gholston-Watson was charged with UUW in 2018. His FOID card was revoked. The Plaintiff filed a Complaint in Cook County seeking relief. On June 25, 2019, the case was dismissed for want of prosecution. ISP decision upheld.

David Garnett v. Illinois State Police -- David Garnett was convicted of Possession of a Controlled Substance in 2004; Retail Theft/Display Merchandise >\$150 in 2003; and Aggravated Criminal Sexual Abuse/Victim 13-16 in 1993. His FOID card application was denied as issuance is contrary to federal law. He filed a complaint in Cook County seeking relief. On May 1, 2019, the case was dismissed with prejudice. ISP decision upheld.

Cedric L. Jones v. Kimberly M. Foxx and Leo P. Schmitz -- Cedric Jones was convicted of Possession of a Controlled Substance in 1990. His FOID card application was denied as issuance is contrary to federal law. He filed a petition in Cook County seeking relief. On August 27, 2019, Cook County granted Mr. Jones's motion to voluntarily dismiss without prejudice. ISP decision upheld.

Weyzero N. Lewis v. Illinois State Police -- Weyzero N. Lewis filed a complaint in Cook County after receiving a letter indicating that his FOID card was denied due to the inability to complete his background check. On July 29, 2019, Cook County entered an Order dismissing the cause for failure to exhaust administrative remedies. ISP decision upheld.

Ronald V. McCoy v. People of the State of Illinois -- Ronald McCoy was convicted of Battery in 1992, following an incident involving domestic violence. His FOID card was revoked as issuance is contrary to federal law. On February 26, 2016, Macon County entered an Order directing ISP to reinstate Mr. McCoy's FOID card. On September 9, 2019, Macon County granted ISP's motion to intervene and vacated the February 26, 2016 Order. ISP decision upheld.

Juan Carlos Neris v. Cook County State's Attorney and Illinois State Police -- Juan Carlos Neris was convicted of Manufacture/Delivery of a Controlled Substance in 1995. His FOID card application was denied as issuance is contrary to federal law. Mr. Neris filed a petition in Cook County seeking relief. On May 29, 2019, Cook County denied Mr. Neris' petition for relief. ISP decision upheld.

Clay Orbeck v. Kimberly M. Foxx and Brendan Kelly -- Clay Orbeck was convicted of Manufacture/Delivery of Cannabis in 2000. His FOID card application was denied as issuance is contrary to federal law. Mr. Orbeck filed a petition in Cook County seeking relief. On July 16, 2019, a motion to dismiss was granted. ISP decision upheld.

John Stacy Pratt v. Cook County State's Attorney; Director of Illinois State Police -- John Pratt was convicted of Manufacture/Delivery of a Controlled Substance in 1999. His FOID card application was denied as issuance is contrary to federal law. Mr. Pratt filed a petition in Cook County seeking relief. On April 9, 2019, the case was dismissed for want of prosecution. ISP decision upheld.

William N. Plakas v. Leo P. Schmitz, Department of State Police -- William N. Plakas was convicted of Unlawful Possession of Motor Vehicle in 2002. His FOID card application was denied as issuance is contrary to federal law. Mr. Plakas filed a Petition in Kankakee County seeking

relief. On January 24, 2019, the Court dismissed the case, finding that the state remedies available to Mr. Plakas had not been exhausted. ISP decision upheld.

Michael John Rice v. Kimberly Foxx - State's Attorney of Cook County; Director of Illinois State Police -- Michael Rice was convicted of Aggravated Criminal Sexual Abuse, Unlawful Restraint, and Criminal Sexual Assault in 1986. His FOID card application was denied as issuance is contrary to federal law. Mr. Rice filed a petition in Cook County seeking relief. On May 29, 2019, an Order denied Mr. Rice's petition for relief. ISP decision upheld.

Timothy Schwanke v. Illinois Department of State Police, Director of Illinois State Police -- Timothy Schwanke was convicted of Battery in 1989. His FOID card application was denied as issuance is contrary to federal law. Mr. Schwanke filed a Complaint in Winnebago County seeking relief. On August 16, 2019, an Order denied Mr. Schwanke's petition for relief. ISP decision upheld.

Tanja R. Sopys v. Kimberly A. Foxx and Leo P. Schmitz -- Tanja Sopys was convicted of Theft in 2003. Her FOID card application was denied as issuance is contrary to federal law. Ms. Sopys filed a petition in Cook County seeking relief. On March 20, 2019, the court dismissed the case with prejudice. ISP decision upheld.

Michael Dean Sherrell v. Leo P. Schmitz, Illinois State Police -- Michael Dean Sherrell was convicted of Domestic Battery/Bodily Harm in 1997. His FOID card application was denied as issuance is contrary to federal law. Mr. Sherrell filed a petition in Kankakee County seeking relief. On January 1, 2019, the court dismissed the case without prejudice. ISP decision upheld.

Darrell Thomas v. Illinois State Police Firearms Service Bureau -- Darrell Thomas was convicted of Aggravated Battery with Great Bodily Harm in 1979. His FOID card was revoked as issuance is contrary to federal law. Mr. Thomas filed a Petition in Kane County seeking relief. On September 19, 2019, Kane County dismissed the case. ISP decision upheld.

David R. Tice v. Illinois State Police, Firearm Services Bureau -- David R. Tice was convicted of Possession of a Controlled Substance in 2004. His FOID card application was denied as issuance is contrary to federal law. Mr. Tice filed a petition in Richland County seeking relief. On July 12, 2019, the court dismissed the case. ISP decision upheld.

Peter Allen Tabak v. Tammy Minor, Bureau of Firearms -- Peter Allen Tabak's FOID card was revoked. The Plaintiff filed a Petition in Sangamon County alleging bias and racial discrimination related to the revocation of his FOID card. On June 29, 2019, the court entered an Order finding that Mr. Tabak's Complaint failed to plead facts establishing entitlement to an Order of Mandamus and failed to exhaust administrative remedies. The case was dismissed with prejudice. ISP decision upheld.

In Re: the Petition of Jeffrey A. Walls -- Petitioner Jeffrey A. Walls was convicted of Burglary in 1986. His FOID card application was denied as issuance is contrary to federal law. On December 15, 2017, Mr. Walls filed a Petition in Lee County seeking relief. On April 23, 2019, the court issued an Order denying relief, as it would be contrary to the public interest to grant him a FOID card. ISP decision upheld.

Andrew David Willis v. The People of the State of Illinois -- Andrew Willis was convicted of two felonies (Delivery of Drugs, Firearms, Etc. to Prisoners; and Manufacture, Sale, Possession of a

Controlled Substance) in the State of Virginia in 2001. His FOID card was revoked as issuance is contrary to federal law. On February 7, 2017, White County entered an Order directing ISP to issue a FOID card to Mr. Willis. ISP moved to intervene and vacate the order, as the court lacked the authority to grant relief from the prohibitor imposed by the Virginia felony convictions. On January 15, 2019, the court vacated the order and dismissed the case with prejudice. ISP decision upheld.

Robert Burgett v. Fulton County State's Attorney's Office -- Robert Burgett was convicted of Battery/Bodily Harm in Mason County in 1996, following a domestic violence incident. Due to the federal prohibitions relating to domestic violence, his FOID card was revoked. On March 1, 2017, Fulton County Circuit Court entered an Order directing ISP to issue a FOID card to Mr. Burgett. ISP moved to intervene and vacate. The order was vacated and the case dismissed. ISP decision upheld.

Cory Sykes v. Leo P. Schmitz and Cook County State's Attorney -- Corey Sykes was convicted of Possession of a Controlled Substance in 1996. His FOID card application was denied as issuance is contrary to federal law. Mr. Sykes filed a petition in Cook County seeking relief. On February 2, 2018, the court denied Mr. Sykes' petition for relief on the merits. Mr. Sykes appealed, and the appeals court reversed and remanded with instructions to dismiss the case for lack of jurisdiction. ISP decision upheld.

The court granted relief and/or directed ISP to issue a FOID card to the petitioner in 12 instances. In 9 of those cases, ISP determined that the Courts had proper authority to grant relief and did not oppose the orders. In two cases, relief was granted over ISP's objection, and one appeal filed by ISP is pending.

Travis A. Demling v. Illinois State Police – Plaintiff was convicted of misdemeanor battery with bodily harm. His FOID card was revoked. The battery was determined to not be domestic in nature. ISP decision reversed without notice to ISP.

In Re the Application of Dale R. Beeman for a Firearm Owners Identification Card – Dale R. Beeman was convicted of deceptive practice and arson. His FOID card application was denied as issuance is contrary to federal law. Mr. Beeman filed a Petition in Lee County seeking relief. On June 14, 2019, Lee County ordered ISP to issue Mr. Beeman a FOID card. ISP decision reversed without objection.

Timothy Blair v. Department of State Police -- Timothy Blair was convicted of Burglary in 1994. His FOID card application was denied as issuance is contrary to federal law. Mr. Blair filed a petition in Will County seeking relief. On October 7, 2019, ISP was ordered to issue a FOID card to Mr. Blair. ISP decision reversed without objection.

Thomas D. Brown v. People of the State of Illinois, Illinois State Police -- Thomas Brown was convicted of Infliction of Corporal Injury: Spouse/Cohabitant in California on September 22, 2001. His FOID card was revoked as issuance is contrary to federal law. Mr. Brown filed a Petition for Administrative Review in Putnam County seeking relief. Putnam County ordered ISP to issue a FOID card to Mr. Brown. ISP decision reversed. ISP filed an appeal that is still pending.

Shawna L. Johnson v. Illinois State Police (FOID Card Revocation) -- Ms. Shawna Johnson was convicted of Battery/Great Bodily Harm on June 7, 2001, following an incident involving domestic violence. Her FOID card was revoked as issuance is contrary to federal law. She filed a Petition

for Review of Denial of Firearm Owner's Identification Card in Wabash County. An Order was entered directing ISP to issue a FOID card to Ms. Johnson, finding provisions of the FOID Card Act and Gun Control Act of 1968 unconstitutional as applied. ISP filed a direct appeal to the Illinois Supreme Court. The Illinois Supreme Court overturned the circuit court findings of unconstitutionality, and in an issue of first impression, held that Ms. Johnson's right to keep and bear firearms was restored through a grant of Section 10 relief, removing her federal prohibitor under the Gun Control Act of 1968. ISP decision reversed.

Patrick M. Kerber v. Illinois State Police -- Patrick M. Kerber was convicted of Domestic Battery in 1987 and 1989. His FOID card application was denied. Mr. Kerber filed a Complaint in DuPage County seeking relief. On July 10, 2019, an Order was entered in DuPage County directing ISP to issue a FOID card to Mr. Kerber because his relationship to the victim did not qualify as a federal prohibitor. ISP decision reversed without objection.

Zohaib Khan v. Illinois State Police -- Zohaib Khan was convicted of Battery on April 29, 2004, and the subject of an Order of Protection in 2012. His FOID card application was denied as issuance is contrary to federal law. Mr. Khan filed a Complaint in Will County seeking relief. The battery was determined to not be domestic in nature. On June 5, 2019, an Order was entered in Will County directing ISP to issue a FOID card to Mr. Khan. ISP decision reversed without objection.

James T. Nugent v. People of the State of Illinois -- Mr. James Nugent was convicted of Battery in 1998. His FOID card was revoked as issuance is contrary to federal law. Mr. Nugent filed a petition in Kankakee County seeking relief. The court determined that the battery conviction was not domestic in nature. An Order was entered directing ISP to issue Mr. Nugent a FOID card. ISP decision reversed without objection.

In Re, the Application of Michael J. O'Malley for a Firearm Owners Identification Card -- Michael J. O'Malley was convicted of Burglary in 1997. His FOID card application was denied as issuance is contrary to federal law. Mr. O'Malley filed a Petition in Lee County seeking relief. On September 4, 2019, an Order was entered in Lee County directing ISP to issue a FOID card to Mr. O'Malley. ISP decision reversed without objection.

Kenneth Smith v. Leo P. Schmitz and Illinois State Police -- Kenneth Smith was convicted of Theft and Burglary in 1984. His FOID card application was denied as issuance is contrary to federal law. Mr. Smith filed a petition in Kankakee County seeking relief. On April 23, 2019, an Order was entered in Kankakee County directing ISP to issue a FOID card to Mr. Smith. ISP decision reversed without objection.

Lucious Tolbert v. Cook County Department of Administrative Hearings, Illinois State Police, Cook County State's Attorney -- Lucious Tolbert was convicted of Manufacture/Delivery of a Controlled Substance and Selling Conspiracy in 1995. His FOID card application was denied as issuance is contrary to federal law. Mr. Tolbert filed a petition in Cook County Circuit Court seeking relief. On April 30, 2019, the Court granted relief to Mr. Tolbert. ISP decision reversed without objection.

Jason Sweet v. Illinois State Police -- Jason Sweets was convicted of Possession/Sell Stolen Vehicle in 1995, and Unlawful Use of Weapon in 1996. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card was revoked. The Plaintiff filed a Petition seeking relief in Winnebago County. The Court held that that ISP had correctly denied the FOID card but then granted relief under Section 10(c) of the FOID Card Act. ISP decision reversed without objection.