

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

Jason Tye Myers,
Appellant-Petitioner,

v.

Indiana Bureau of Motor
Vehicles,
Appellee-Respondent.

May 20, 2022

Court of Appeals Case No.
21A-MI-2307

Appeal from the Tippecanoe
Superior Court

The Honorable Michael A.
Morrissey, Judge

Trial Court Cause No.
79D06-1603-MI-54

Bradford, Chief Judge.

Case Summary

- [1] After Jason T. Myers committed what, at the time, amounted to three qualifying offenses, the Indiana Bureau of Motor Vehicles (“BMV”) found him to be a habitual traffic violator (“HTV”) and suspended his driving privileges for a ten-year period, beginning March 15, 2012. The BMV sent notice of the status determination and suspension to Myers at his address on file with the BMV. Myers, however, claims he did not receive the notice because he was incarcerated at the time. Myers filed numerous petitions for judicial review, both pre- and post-release from incarceration, seeking to have his suspension rescinded. This appeal stems from the denial of the last of these petitions.
- [2] By all accounts, the suspension of Myers’s driving privileges ended in March of 2022, and nothing in the record indicates that his driving privileges were not reinstated at the end of his suspension. As such, we conclude that because we are unable to grant Myers any effective relief, this appeal is moot. The matter is therefore dismissed.

Facts and Procedural History

- [3] On July 9, 1999, and August 6, 2001, Myers operated a vehicle without ever having received a license.¹ On October 2, 2003, Myers operated a vehicle while

¹ The State acknowledges that these offenses would not currently count as qualifying offenses towards a HTV determination. However, it is undisputed that these offenses did count as qualifying offenses towards a HTV determination at the time Myers was found to be a HTV.

intoxicated. On February 9, 2012, the BMV determined that pursuant to Indiana Code section 9-30-10-4(b), Myers qualified as a HTV and, as such, his driving privileges were suspended for a period of ten years, beginning on March 15, 2012. The BMV mailed the notification regarding Myers's HTV status and the resulting suspension to his address on file with the BMV in Stockwell, Indiana.

[4] Myers was incarcerated beginning June 28, 2006. In October of 2015, Myers obtained a copy of his BMV record through the Plainfield Correctional Facility. Myers asserts that upon reviewing his BMV record, he learned of the 2012 suspension for the first time.

[5] In November of 2015, Myers wrote to the BMV, requesting that the BMV rescind his HTV designation and ten-year suspension. On December 23, 2015, the BMV sent a letter to Myers, at his last known official address, which stated, in relevant part, as follows:

On November 24, 2015, the [BMV] received a request for review related to the BMV's determination that you qualify as a [HTV] and must serve a ten (10) year driving privilege suspension (Suspension ID: 17). Indiana Code § 9-30-10-6 limits the BMV's review of HTV suspensions to a review for material error contained in the BMV's records. Following the receipt of your request, a review of the BMV's records was conducted to determine whether a material error currently exists. The BMV finds no material error with respect to the determination that you qualify as an HTV and that you must serve a ten (10) year suspension.

Ind. Code § 9-30-10-4(b) provides that a person who has

accumulated at least three (3) judgments for any violation listed in Ind. Code § 9-30-10-4(a) or (b) within a ten (10) year period, is an HTV. According to the BMV's records, you accumulated three (3) judgments for violations listed in Ind. Code § 9-30-10-4(b) in a ten (10) year period. The violations include the following:

Offense Date	Offense Description	Judgment Date
10/02/2003	Operating Per Se with Alcohol Concentration of .08 or Above	06/28/2006
09/06/2001	Never Received a Valid License	10/29/2002
07/09/1999	Never Received a Valid License	01/27/2000

The BMV correctly determined that you are an HTV, as defined by Ind. Code § 9-30-10-4(b), and notified you by letter dated February 9, 2012 of its determination and the ten (10) year suspension beginning March 15, 2012 – Suspension ID 17.

Ind. Code § 9-30-10-5(b)(3) provides that if an individual qualifies as an HTV under Ind. Code § 9-30-10-4(b), the BMV must suspend that individual's driving privileges for a period of ten (10) years. Based on your accumulation of the above violations, the BMV was required by law to suspend your driving privileges for ten (10) years.

Because the BMV finds that no material error exists with respect to Suspension ID 17, this suspension will remain in effect.

Appellant's App. Vol. II pp. 40–41.

[6] On or about February 26, 2016, Myers filed a verified petition for judicial review of his designation as a HTV and ten-year suspension. In the alternative, Myers requested specialized driving privileges. On May 1, 2016, the trial court indicated that it would not consider Myers's request until he was released from incarceration. Myers filed another petition for judicial review/request for specialized driving privileges on August 9, 2016. After the trial court denied this petition, Myers filed a motion for reconsideration and requested a hearing. The trial court again indicated that it would not consider Myers's request until he was released from incarceration.

[7] Myers was released from incarceration in November of 2016. On May 30, 2017, Myers requested that the trial court schedule a hearing on his request for specialized driving privileges, indicating that he had "been released from prison since November 7, 2016." Appellee's App. Vol. II p. 2. On June 27, 2017, the trial court granted Myers's request for a specialized driving permit. In its order, the trial court indicated that Myers's "current driving license suspension are now stayed, and [Myers] is granted **SPECIALIZED DRIVING PRIVILEGES** until March 13, 2022, and commencing the date of this ORDER." Appellee's App. Vol. II p. 4 (emphasis in original). Myers's specialized driving privileges allowed him "to operate a vehicle directly to and from work/employment," for the "[n]ecessities of life," and as needed to "[c]omplete terms of probation." Appellee's App. Vol. II pp. 5–6. At Myers's request, the trial court modified Myers's specialized driving privileges to reflect a change in employment on October 13, 2017.

[8] On August 26, 2021, Myers filed a verified petition for judicial review in which he “respectfully request[ed] that [the trial court] provide review of the [BMV] action adjudicating [him] to be a [HTV] and invoking a ten (10) year suspension and rescind, void, or nullify the BMV’s adjudication.” Appellant’s App. Vol. II p. 42. The trial court held a hearing on Myers’s petition on September 14, 2021, after which it denied Myers’s petition.

Discussion and Decision

[9] Myers contends that the trial court erred in denying his petition for judicial review of the ten-year suspension of his driving privileges. For its part, the State argues that because Myers’s suspension has expired, the court cannot grant him any relief and his appeal is therefore moot. We agree.

[10] The long-standing rule in Indiana courts has been that a case is deemed moot when no effective relief can be rendered to the parties before the court. When the concrete controversy at issue in a case has been ended or settled, or in some manner disposed of, so as to render it unnecessary to decide the question involved, the case will be dismissed.

Matter of Lawrance, 579 N.E.2d 32, 37 (Ind. 1991) (internal quotation omitted).

Further, “[w]hile Article III of the United States Constitution limits the jurisdiction of federal courts to actual cases and controversies, the Indiana Constitution does not contain any similar restraint.” *Id.* “Thus, although moot cases are usually dismissed, Indiana courts have long recognized that a case may be decided on its merits under an exception to the general rule when the

case involves questions of ‘great public interest.’” *Id.*; see also *In re Custody of M.B.*, 51 N.E.3d 230, 233 (Ind. 2016) (providing that the Indiana Constitution permits Indiana courts to decide moot cases on the merits when the case involves questions of great public interest). “Although Indiana does not require that the issue be capable of repetition, cases falling into the public interest exception usually involve issues that are likely to recur.” *Ind. High Sch. Athletic Ass’n, Inc. v. Durham*, 748 N.E.2d 404, 412 (Ind. Ct. App. 2001).

[11] In this case, Myers’s ten-year suspension began on March 15, 2012. Given that its duration was limited to ten years, the suspension expired on or about March 15, 2022. In bringing the instant appeal, Myers contends that the trial court erred by not rescinding his HTV status and reinstating his driving privileges. However, given that nothing in the record even suggests that Myers’s driving privileges were not reinstated upon the expiration of the complained-of suspension and the fact that any potential future changes to the status of Myers’s driving privileges would not be based on a prior BMV determination but would instead be based upon Myers’s future conduct and the laws in effect at the time of any potential change, we agree with the State that Myers’s appeal is moot as “there is nothing this court can do to provide Myers with relief.” Appellee’s Br. p. 13.

[12] Myers seems to acknowledge that his case is moot but argues that the issues presented “are of great public interest due to the nature of the issues.” Appellant’s Reply Br. p. 4. He further argues that “[c]orrection of issues with driver license suspensions are of great interest to the public in Indiana to keep

valid drivers out of a pickle when it comes to changes in law.” Appellant’s Reply Br. p. 4. In support, Myers asserts that cases similar to his, *i.e.*, cases involving allegedly insufficient notice to incarcerated individuals and questions regarding whether statutory changes are to be applied prospectively or retroactively, are likely to reoccur. However, even though there may be countless others who have had their driving privileges suspended based on prior versions of the applicable statutes, we cannot agree with Myers that the situation presented in the instant appeal rises to the level of “great public interest.” The facts and circumstances of Myers’s case are limited to this case, and we find no compelling public policy reasons to decide the merits of Myers’s claims. As such, we conclude that Myers’s appeal is moot as the complained-of suspension has expired, and there is no relief that we can grant to Myers.²

[13] Given that the issue presented is moot, the instant appeal is dismissed.

Najam, J., and Bailey, J., concur.

² Furthermore, to the extent that Myers has asserted similar claims against the State in federal court, we are unconvinced by Myers’s assertion that we should consider the merits of this case because “[a] competent decision by this court will allow the federal proceedings to move forward without timely proceeding to decide the merits of the issues before this court, at the very least.” Appellant’s Reply Br. p. 5. We are in no position to comment on the issues presented in Myers’s allegedly related federal lawsuit and cannot say that resolution of the merits of the claims before this court would have any impact on the issues allegedly raised in Myers’s federal lawsuit.