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plaintiff refused to submit to a test of his blood alcohol level following his arrest for driving under the influence (DUI). Plaintiff alleged that the circuit court's 2006 order upholding the suspension of his driving privileges was "void" where a hearing on plaintiff's petition to rescind the suspension was not held within the 30-day statutory time frame. Thus, plaintiff argued that the Secretary was required to restore his driving privileges. The circuit court dismissed plaintiff's complaint under section 2-615 of the Illinois Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2008)). Plaintiff now appeals. For the following reasons, we affirm.

I. BACKGROUND

On January 15, 2006, plaintiff was arrested for DUI and refused to submit to a test of his blood alcohol level. As a result, in accordance with procedures set forth in the Illinois Vehicle Code (Vehicle Code), the Secretary entered a statutory summary suspension of plaintiff's driving privileges. 625 ILCS 5/11-501.1(a),(d),(e) (West 2008). The suspension took effect on March 2, 2006, the 46th day following the date notice of suspension was given to plaintiff, pursuant to section 11-501.1(g) of the Vehicle Code (625 ILCS 5/11-501.1(g) (West 2008)). Due to the summary suspension and convictions following arrests on March 6, 2006 and June 5, 2006 for driving while suspended, plaintiff is not eligible for full reinstatement of his driving privileges until March 2, 2015.

On April 5, 2006, plaintiff filed in the circuit court a petition to rescind the statutory summary suspension. On June 16, 2006, the circuit court entered an order denying plaintiff's petition to rescind. Plaintiff did not appeal the circuit court's judgment.

On October 20, 2009, plaintiff filed a lawsuit against the Secretary, entitled "Civil Action

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to Compel Defendant to Restore Driver's license." In the pleading, plaintiff observed that a hearing on his April 5, 2006 petition to rescind the statutory summary suspension was not held within 30 days, as required by the Vehicle Code (625 ILCS 5/2-118.1(b) (West 2008)). As a result, plaintiff alleged that the circuit court's June 16, 2006 order denying his petition to rescind the summary suspension was void and his driving privileges must be restored.

On December 16, 2009, the Secretary filed a motion to dismiss plaintiff's complaint, arguing that the complaint failed to state a cause of action for declaratory relief. The Secretary noted that plaintiff's driving privileges were automatically suspended pursuant to statute and if there were irregularities in the case before the circuit court, defendant should have raised them in an appeal before the appellate court rather than raising an improper collateral attack by filing suit in the Chancery Division.

On February 3, 2010, the circuit court held a hearing and requested clarification concerning the validity of the circuit court's June 16, 2006 order denying plaintiff's petition to rescind the statutory summary suspension. The circuit court ordered the Secretary to file a supplemental brief addressing the question: "If the Circuit Court of Cook County does not have a hearing within 30 days, does that make the Circuit Court of Cook County's order void?"

On May 7, 2010, the Secretary filed a supplemental brief arguing that regardless of whether the proceedings satisfied the 30-day time period under the Vehicle Code, the relevant authorities demonstrated that the circuit court's order denying rescission was not "void." The Secretary stated that it had no authority to modify or reverse a decision entered by the circuit court, and, therefore, could not disregard the 2006 court order denying rescission.

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On June 4, 2010, the circuit court entered an order dismissing plaintiff's complaint with prejudice, pursuant to section 2-615 of the Code, for failure to state a claim for declaratory relief. The circuit court found, "[N]o case or controversy exists between plaintiff and [the Secretary] as the circuit court's June 16, 2006 order is voidable, not void, and cannot be challenged by plaintiff's seeking further review in the circuit court."

On June 8, 2010, plaintiff filed a motion to reconsider and the circuit court entered an order denying plaintiff's motion to reconsider on July 16, 2010. Plaintiff now appeals.

II. ANALYSIS

We review *de novo* a dismissal under section 2-615 of the Code. *Solaia Technology, LLC v. Specialty Publishing Co.*, 221 Ill.2d 558, 578-79 (2006). A complaint is properly dismissed under section 2-615 of the Code where there is no set of facts that if proven would entitle the plaintiff to recovery. *Marshall v. Burger King Corp.*, 222 Ill.2d 422, 429 (2006).

Section 2-118.1(b) of the Vehicle Code provides that a person whose driving privileges have been summarily suspended, for refusing or failing an alcohol or drug test under section 11-501.1, may request a hearing in the circuit court. 625 ILCS 5/2-118.1(b) (West 2008). Section 2-118.1(b) further provides that a hearing "shall be conducted by the circuit court" within "30 days after receipt of the written request or the first appearance date on the Uniform Traffic Ticket issued pursuant to a violation of Section 11-501." 625 ILCS 5/2-118.1(b) (West 2008).

Plaintiff argues that the circuit court's June 16, 2006 order denying his petition for rescission of the statutory summary suspension was not entered within 30 days of the filing of his April 5, 2006 petition. Plaintiff asserts that because he did not occasion the delay, the June 16,

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2006 order is “void” and the Secretary is required to reinstate his driving privileges. Therefore, plaintiff contends that the circuit court improperly dismissed his complaint for failure to state a cause of action. The Secretary responds that any impropriety in the issuing of the circuit court’s determination merely renders the circuit court’s June 16, 2006 order “voidable” and a voidable judgment is not subject to collateral attack.

Whether a judgment is “void” or “voidable” presents a question of jurisdiction. *In re John C.M.*, 382 Ill. App. 3d 553, 558 (2008). “A voidable judgment is one entered erroneously by a court and is not subject to collateral attack.” *In re John C.M.*, 382 Ill. App. 3d at 558.

“ ‘Judgments entered in a civil proceeding may be collaterally attacked as void only where there is a total want of jurisdiction in the court which entered the judgment, either as to the subject matter or as to the parties.’ ” *In re Marriage of Mitchell*, 181 Ill. 2d 169, 174 (1998) (quoting *Johnston v. City of Bloomington*, 77 Ill. 2d 108, 112 (1979)). Our supreme court has explained:

“Once a court has acquired jurisdiction, an order will not be rendered void merely because of an error or impropriety in the issuing court’s determination of the law. [Citations.] ‘Accordingly, a court may not lose jurisdiction because it makes a mistake in determining either the facts, the law[,] or both.’ [Citation.]” *Marriage of Mitchell*, 181 Ill. 2d at 174-75.

Our supreme court has made clear that a circuit court’s order is not void for failing to follow statutory conditions in a trio of decisions referred to as the *Belleville Toyota* cases. *Graf v. Village of Lake Bluff*, 206 Ill. 2d 541 (2003); *Belleville Toyota, Inc. v. Toyota Motor Sales*,

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U.S.A., Inc., 199 Ill. 2d 325 (2002); and *Steinbrecher v. Steinbrecher*, 197 Ill. 2d 514 (2001).

The *Belleville Toyota* line of cases crystallized the principle that, as a result of the changes made to the Illinois Constitution, limitation periods contained in statutes were not jurisdictional prerequisites to suit and circuit courts did not lose jurisdiction when they failed to follow the “strictures of the statute.” *Belleville Toyota*, 199 Ill. 2d at 340-41.

Accordingly, we cannot accept plaintiff’s argument in the present case. The circuit court had personal and subject matter jurisdiction with respect to plaintiff’s request to rescind the statutory summary suspension of his driving privileges. 625 ILCS 5/1-118.1(b) (West 2008). Therefore, even if the circuit court did not hold the hearing on plaintiff’s request within the statutory time frame, the June 16, 2006 order is not “void,” but “voidable.” Such a “voidable” judgment is not subject to collateral attack. *In re John C.M.*, 382 Ill. App. 3d at 558. Therefore, plaintiff’s complaint, filed on October 20, 2009, was an improper collateral attack on the prior judgment entered by the circuit court on June 16, 2006 denying his request to rescind the statutory summary suspension. Had plaintiff wished to challenge the circuit court’s June 16, 2006 order, plaintiff should have pursued such relief by appealing to this court. Plaintiff did not do so. Plaintiff cannot now seek to relitigate the statutory summary suspension of his driving privileges by filing suit in the circuit court against the Secretary. *See City of Chicago v. Midland Smelting Co.*, 385 Ill. App. 3d 945, 955 (2008) (doctrine of *res judicata* acts as a bar to litigation of all issues that were actually decided and of all issues that could have been raised and decided in the earlier action).

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For the above reasons, we affirm the judgment of the circuit court, dismissing plaintiff's complaint pursuant to section 2-615 of the Code.

Affirmed.