2015 IL App (4th) 140587-U

NO. 4-14-0587

FILED
April 10, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

CALVIN CHRISTIAN III and THEODORE C. CHRISTIAN, JR., on Behalf of Themselves and All Others Similarly Situated, Plaintiffs-Appellants, v. THE CITY OF SPRINGFIELD, a Municipal Corporation, Defendant-Appellee.	))))))))	Appeal from Circuit Court of Sangamon County No. 13L269 Honorable Peter C. Cavanagh, Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Knecht and Appleton concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the trial court's dismissal of plaintiffs' complaint due to its failure to state a cause of action upon which relief may be granted.

¶ 2 Plaintiffs, Calvin Christian III and Theodore C. Christian, Jr., appeal from the dismissal of their 25-count complaint for failure to state a cause of action upon which relief may be granted pursuant to section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2012)). We affirm.

¶ 3 I. BACKGROUND

¶ 4 On June 3, 2012, Calvin was arrested by Springfield police officers for reckless driving (625 ILCS 5/11-503 (West 2012)) and resisting/obstructing a police officer (720 ILCS 5/31-1 (West 2010)). Calvin was also cited for violating the sound-device restrictions of section 98.05 of the City of Springfield Code of Ordinances (Springfield Code) (sound-device

ordinance) (Springfield Code, § 98.05 (2010)). In addition, the vehicle Calvin was driving at the time of his arrest, a 2013 Hyundai Sonata registered to his father, Theodore, was towed and impounded by defendant, the City of Springfield, pursuant to section 76.44 of the Springfield Code (impoundment ordinance) (Springfield Code, § 76.44 (2010)). The impoundment ordinance provides for the towing and impoundment of vehicles used in the commission of certain state and municipal offenses, including reckless driving.

¶ 5 On November 12, 2013, Calvin filed a 25-count "complaint for damages, declaratory and other relief" in the Sangamon County circuit court as well as a motion to certify class action. The motion to certify class action was not set for hearing or addressed by the trial court.

¶ 6 On January 30, 2014, Calvin filed a motion for summary judgment, asserting the impoundment ordinance "is as a matter of law, defective on its face with regard to its method of application."

¶ 7 Also on January 30, 2014, defendant filed a combined motion to dismiss Calvin's complaint pursuant to section 2-619.1 of the Code of Civil Procedure (735 ILCS 5/2-619.1 (West 2012)). Defendant alleged dismissal was proper under section 2-619 of the Code of Civil Procedure (735 ILCS 5/2-619 (West 2012)) because Calvin, who was not the registered owner of the vehicle, lacked standing to bring the claims. Defendant also asserted that Calvin's claim for conversion (count XXIII) should be dismissed under section 2-619(a)(5) because it was not filed within the applicable statute of limitations. Last, defendant alleged dismissal was proper on all counts under section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2012)) because Calvin failed to state a cause of action upon which relief may be granted.

¶ 8 On February 20, 2014, Calvin filed a motion for leave to amend his pleading to join a party plaintiff, which the trial court allowed. Theodore was added as a party plaintiff and on February 24, 2014, plaintiffs filed their first amended 25-count complaint for damages, declaratory judgment and other relief. Each count of plaintiffs' first amended complaint will be discussed in detail below.

¶ 9 On June 11, 2014, the trial court granted defendant's section 2-615 motion to dismiss; denied defendant's section 2-619 motion to dismiss; and denied plaintiffs' motion for summary judgment. In its order, the court noted plaintiffs' complaint and defendant's motion to dismiss were "substantially the same as the complaint and motion in *Fulton v. City of Springfield*, filed in this court as Case No. 2012-MR-86." In that case, the court granted defendant's section 2-615 motion to dismiss, finding the impoundment ordinance was constitutional. The court in this case adopted the holdings of the *Fulton* court, and further, the court concluded that the sound-device ordinance was not unconstitutionally vague. We find no indication in the record that plaintiffs requested an opportunity to replead.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, plaintiffs frame the issues as follows: whether (1) the impoundment and sound-device ordinances' arrest and vehicle-seizure provisions violate the fourth amendment to the U.S. Constitution and article I, section 13, of the Illinois Constitution; (2) there exists a right to a jury trial for a violation of the ordinances; (3) the ordinances violate article VI, sections 2 and 9, of the Illinois Constitution; (4) the ordinances are unreasonable, arbitrary, and capricious; and (5) defendant was unjustly enriched.

¶ 13 A. Standard of Review

¶ 14 At the outset, we note that municipal ordinances are presumed to be constitutional. *City of Chicago v. Pooh Bah Enterprises, Inc.*, 224 Ill. 2d 390, 406, 865 N.E.2d 133, 146 (2006). The burden of rebutting the presumption of constitutionality falls on the party challenging the ordinance's validity. *Id*.

¶ 15 "A section 2-615(a) motion to dismiss tests the legal sufficiency of the complaint based on defects apparent on its face." *Reynolds v. Jimmy John's Enterprises, LLC*, 2013 IL App (4th) 120139, ¶ 25, 988 N.E.2d 984. "Under section 2-615, the critical question is whether the allegations in the complaint, construed in the light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief may be granted." *Doe-3 v. McLean County Unit District. No. 5 Board of Directors*, 2012 IL 112479, ¶ 16, 973 N.E.2d 880. "In making this determination, all well-pleaded facts must be taken as true." *Id*. "Because Illinois is a fact-pleading jurisdiction, a plaintiff must allege facts, not mere conclusions, to establish his or her claim as a viable cause of action." *Napleton v. Village of Hinsdale*, 229 Ill. 2d 296, 305, 891 N.E.2d 839, 845 (2008). "Legal conclusions and factual conclusions which are unsupported by allegations of specific facts will be disregarded in ruling on a motion to dismiss." *Cummings v. City of Waterloo*, 289 Ill. App. 3d 474, 479, 683 N.E.2d 1222, 1225 (1997). In other words, "to withstand a motion to dismiss based on section 2-615, a complaint must allege facts that set forth the essential elements of the cause of action." *Visvardis v. Ferleger*, 375 Ill. App. 3d 719, 724, 873 N.E.2d 436, 441 (2007). "A section 2-615(a) motion dismissal is reviewed *de novo*." *Reynolds*, 2013 IL App (4th) 120139, ¶ 25, 988 N.E.2d 984. On review, "this court may affirm the trial court's judgment on any basis that is supported by the record." *Stoll v. United Way of Champaign County, Illinois, Inc.*, 378 Ill. App. 3d 1048, 1051, 883 N.E.2d 575, 578 (2008). Thus, despite plaintiffs' framing of the issues above, our review is limited to whether the

allegations in plaintiffs' complaint sufficiently pleaded a cause of action upon which relief may be granted.

¶ 16 B. The Springfield Ordinances Challenged

¶ 17 We begin with an overview of the ordinances challenged by plaintiffs.

¶ 18 1. *Impoundment Ordinance*

¶ 19 Section 76.44 of the Springfield Code provides, in relevant part, as follows:

> "(a) *Impoundment and fine*. A motor vehicle in which the driver is arrested or cited for the commission of a felony, certain misdemeanors, or certain ordinance violations shall be subject to seizure and impoundment under this section. If [one of the enumerated offenses] was committed, the owner of record of such vehicle shall be liable to the city for a penalty of $500 in addition to fees for the towing and storage of the vehicle.
>
> (b) *Notice*. Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation of the fact of the seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under this section.
>
> ***

(d) *Preliminary hearing*. Within 24 hours after receiving notice of the seizure, the owner of the vehicle seized pursuant to this section may request a preliminary hearing. *** A hearing officer of the city shall conduct such preliminary hearing at the next administrative court date to be held within seven days after said seizure. *** If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle, was used in the commission of any offense set forth in subsection (a) herein, the hearing officer shall order the continued impoundment of the vehicle as provided in this section unless the owner of the vehicle posts with the city a cash bond in the amount of the penalty, as well as an amount equal to fees for the towing and storage of the vehicle. If the hearing officer determines that there is no such probable cause, the vehicle will be returned without penalty or fees." Springfield Code, § 76.44 (2010).

¶ 20 2. *Sound-Device Ordinance*

¶ 21 Section 98.05 of the Springfield Code provides, in relevant part, as follows:

"(a) No person shall play, use, operate or permit to be played, used or operated, any radio, tape recorder, cassette player or other device for receiving broadcast sound or reproducing record sound if the device is located:

(1) On the public way; or

(2) In any motor vehicle on the public way; and if the sound generated by the device is clearly audible to a person with normal hearing at a distance greater than 75 feet. ***.

(b) The operator of the vehicle who violates this section shall be subject to a fine of not less than $250 for the first offense. For a second violation of this section within a 24-month period, the mandatory minimum fine shall be $500 and the vehicle shall be subject to impoundment. For a third or subsequent violation of this section, the mandatory minimum fine shall be $750 and the vehicle shall be subject to impoundment. ***

(c) A vehicle shall be subject to seizure and impoundment upon the second or subsequent violation by the operator within a 24-month period." Springfield Code, § 98.05 (2010).

¶ 22 C. First Amended Complaint

¶ 23 We now turn our attention to plaintiffs' first amended complaint to determine whether they sufficiently pleaded a cause of action upon which relief may be granted.

¶ 24 1. *Constitutional Challenges*

¶ 25 On appeal, plaintiffs challenge the impoundment and sound-device ordinances on several constitutional grounds. Specifically, they assert (1) the impoundment ordinance is facially unconstitutional because it violates the fourth amendment to the United States Constitution and article I, section 6, of the Illinois Constitution; (2) the sound-device ordinance is unconstitutionally vague, unreasonable, and arbitrary; (3) the impoundment ordinance violates

the separation-of-powers provision of the Illinois Constitution; (4) the impoundment ordinance violates article VI, section 1, of the Illinois Constitution; and (5) the impoundment ordinance violates article VI, section 9, of the Illinois Constitution.

¶ 26 At the outset, we note that in addition to taking issue with the ordinances' vehicle-seizure provisions, plaintiffs also argue the impoundment ordinance "authorizes the arrest of the operator of the vehicle *** in contravention of the warrant clause of the Fourth Amendment." However, the issue before us deals only with the seizure and impoundment of vehicles pursuant to the impoundment and sound-device ordinances, neither of which provide for the actual arrest of the driver of the seized vehicle. Thus, we do not address any of plaintiffs' arguments related to warrantless arrests.

¶ 27 a. Count I

¶ 28 In count I of plaintiffs' first amended complaint, plaintiffs allege that the arrest and vehicle-seizure provisions of defendant's impoundment ordinance are "repugnant" to the fourth amendment to the United States Constitution and article I, section 6, of the Illinois Constitution, where the ordinance vests a hearing officer—who is employed by defendant—"with judicial power to determine 'probable cause' for warrant-less arrest and seizure of the property (vehicle) that are by law within the sole domain of a detached neutral magistrate." Accordingly, plaintiffs assert the impoundment ordinance is facially unconstitutional.

¶ 29 The fourth amendment to the United States Constitution, which is applicable to the states through the fourteenth amendment, protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures" and provides that "no Warrants shall issue, but upon probable cause." U.S. Const., amend. IV; *Soldal v. Cook County*, 506 U.S. 56, 61 (1992). Likewise, article I, section 6, of the Illinois

Constitution protects the right of the people "to be secure in their persons, houses, papers and other possessions against unreasonable searches [and] seizures" and provides that "[n]o warrant shall issue without probable cause." Ill. Const. 1970, art. I, § 6.

¶ 30 Plaintiffs' argument revolves around a provision of the impoundment ordinance, which provides as follows:

> "If, after the [preliminary] hearing, [if any,] *the hearing officer determines that there is probable cause* to believe that the vehicle, [*sic*] was used in the commission of any offense set forth in subsection (a) herein, the hearing officer shall order the continued impoundment of the vehicle *** unless the owner of the vehicle posts with the city a cash bond in the amount of the penalty, as well as any amount equal to fees for the towing and storage of the vehicle." (Emphasis added.) Springfield Code, § 76.44(d) (2010).

¶ 31 Citing *County of Riverside v. McLaughlin*, 500 U.S. 44, 53 (1991), plaintiffs contend that because a hearing officer employed by defendant is not a detached, neutral magistrate, the hearing officer lacks authority to render a probable-cause determination.

¶ 32 In *Riverside*, the United States Supreme Court was tasked with determining what constitutes a "prompt" probable-cause determination under *Gerstein v. Pugh*, 420 U.S. 103 (1975), a case that held "warrantless arrests are permitted but persons arrested without a warrant must promptly be brought before a neutral magistrate for a judicial determination of probable cause." *Riverside*, 500 U.S. at 53. The County of Riverside's policy allowed a person arrested without a warrant to be held for up to seven days in some instances, *i.e.*, over the Thanksgiving holiday, without a probable-cause determination. *Id.* at 47. The *Riverside* court determined that

a judicial determination of probable cause within 48 hours of a person's arrest would generally comply with *Gerstein*'s promptness requirement. *Id*. at 56.

¶ 33 Plaintiff's reliance on *Riverside*—where the concern related to the length of time a person arrested without a warrant could be held in custody without a probable-cause determination having been made—is misplaced. The issue here concerns a civil administrative determination of whether "probable cause" existed to believe the seized vehicle (not person) was used in the commission of one of the offenses enumerated in the ordinance. Plaintiffs improperly conflate "probable cause" in this setting with its use in a situation involving the arrest of a person without a warrant for violating a state statute. The latter situation requires a separate proceeding conducted in the circuit court. The constitutional concerns relating to the seizure of a person, and the probable-cause proceedings attendant thereto, are not applicable here. Thus, in count I, plaintiffs fail to state a claim upon which relief may be granted.

¶ 34 b. Count II

¶ 35 In count II, plaintiffs allege that the vehicle-seizure provision of the sound-device ordinance is (1) unreasonable on its face, (2) void for vagueness, and (3) arbitrary as a matter of law. Specifically, plaintiffs assert that "the seizure of a vehicle for [the violation of a sound-device ordinance], in addition to a fine, is on its face unreasonable" under the fourth amendment to the United States Constitution and article I, section 6, of the Illinois Constitution. They further contend that "the sound device ordinance is impermissibly vague in all of its applications as well as its application to the named plaintiff and it encourages arbitrary and discriminatory enforcement on its face." In addition, plaintiffs conclude "the exemption of the application of the ordinance to vehicles registered to a business, but not individuals is arbitrary as a matter of law."

¶ 36 Here, count II consists entirely of legal conclusions. Plaintiffs do not plead sufficient facts establishing how the sound-device ordinance is unreasonable on its face, void for vagueness, or applied in an arbitrary manner. In other words, plaintiffs identify no specific infirmities which make the sound-device ordinance vague, unreasonable, or arbitrary. Rather, they simply conclude it is so. Factual deficiencies of this nature cannot be cured by liberal construction. *La Salle National Bank v. City Suites, Inc.*, 325 Ill. App. 3d 780, 790, 758 N.E.2d 382, 390 (2001). Further, based on our review of the ordinance, we do not find it to be facially unconstitutional. Thus, in count II, plaintiffs fail to state a claim upon which relief may be granted.

¶ 37 c. Count XI

¶ 38 In count XI, plaintiffs allege that the impoundment ordinance violates the separation-of-powers provision of the Illinois Constitution. Plaintiffs' separation-of-powers argument is based on their contention that the impoundment ordinance authorizes a hearing officer to (1) render a probable-cause determination or (2) enter a default judgment—both acts they assert rest solely with the judiciary.

¶ 39 The separation-of-powers doctrine contained in article II, section 1, of the Illinois Constitution provides that "[t]he legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another." Ill. Const. 1970, art. II, § 1. "The Illinois Supreme Court has consistently interpreted this section to mean that the *whole power* of two or more branches of the government shall not be compressed into a single branch of the government." (Emphasis in original.) *Van Harken v. City of Chicago*, 305 Ill. App. 3d 972, 977, 713 N.E.2d 754, 758 (1999) (citing *Best v. Taylor Machine Works*, 179 Ill. 2d 367, 410, 689 N.E.2d 1057, 1078 (1997); *Strukoff v. Strukoff*, 76 Ill. 2d 53, 58, 389 N.E.2d 1170, 1172

(1979)). However, an overlap between the branches of government "does not violate the separation of powers doctrine, as long as the administrative actions are subject to judicial review." *Id.*; see also *City of Waukegan v. Pollution Control Board*, 57 Ill. 2d 170, 181-82, 311 N.E.2d 146, 152 (1974) ("[I]f the judiciary is given an adequate opportunity to review what has been done, the principle of separation of powers—or due process of law, if you will—is generally satisfied.' ") (quoting G. Braden & R. Cohn, *Illinois Constitution: An Annotated & Comparative Analysis*, 104-05 (1969)).

¶ 40 In this case, when a vehicle is impounded pursuant to the impoundment ordinance, the owner has 24 hours to request a preliminary hearing, at which a hearing officer determines whether there is probable cause to believe the impounded vehicle was used in the commission of one of the enumerated offenses subjecting it to seizure. Springfield Code § 76.44(d) (2010). The impoundment ordinance also provides for a plenary hearing before a hearing officer upon request by the vehicle's owner. Springfield Code § 76.44(e) (2010). However, a final decision of the hearing officer is subject to judicial review as indicated by section 39.14 of the Springfield Code, which states that "[a]ny final decision by a hearing officer that a code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law [(735 ILCS 5/3-101 to 3-113 (West 2012))]." Springfield Code § 39.14 (2010). Because the ultimate decision regarding whether probable cause exists to believe the vehicle was used in the commission of one of the enumerated offenses subjecting it to seizure rests with the judiciary, the impoundment ordinance does not violate the separation-of-powers provision of the Illinois Constitution. Thus, in count XI, plaintiffs fail to state a claim upon which relief may be granted.

¶ 41 d. Count XII

¶ 42 In count XII, plaintiffs allege that the impoundment ordinance violates article VI, section 1 of the Illinois Constitution, which provides that "[t]he judicial power is vested in a Supreme Court, and Appellate Court and Circuit Courts." Ill. Const. 1970, art. VI, § 1. Specifically, in count XII, plaintiffs allege as follows:

> "Defendant City lacks 'judicial power' under the Illinois Constitution to adjudicate state and municipal offenses enumerated in [the impoundment ordinance] to support the seizure of property such as vehicles. It lacked judicial power to impose or assess monetary fines or create responsibility upon the owners of the vehicles to pay towing or storage charges based upon an unconstitutional adjudication that purports to determine the commission of one or more of the statutory predicate offenses specified in the Ordinance as well as 'probable cause' for arrest and seizure, which is clearly a judicial power awarded solely to the courts."

In addition, plaintiffs allege that defendant lacks authority to dispose of unclaimed vehicles.

¶ 43 Initially, we note that plaintiffs' vehicle was returned in this case. Thus, plaintiffs lack standing to make the latter argument. Further, contrary to plaintiffs' contention, the administrative proceedings at issue here do not adjudicate the state or municipal offenses enumerated in the impoundment ordinance. Thus, in count XII, plaintiffs fail to state a claim upon which relief may be granted.

¶ 44 e. Count XIII

¶ 45 In count XIII, plaintiffs allege the impoundment ordinance violates article VI, section 9, of the Illinois Constitution in that it allows defendant to "adjudicate state statutory offenses" and "impose or assess a monetary fine" based on "an unconstitutional adjudication that purports to determine the guilt or innocence of the commission of one or more of the statutory state offenses enumerated" when the jurisdiction for such "justiciable matters" is reserved to the circuit courts.

¶ 46 Article VI, section 9, of the Illinois Constitution provides that "[c]ircuit [c]ourts shall have original jurisdiction of all justiciable matters except when the Supreme Court has original and exclusive jurisdiction ***. Circuit Courts shall have such power to review administrative action as provided by law." Plaintiffs' contention that defendant lacks jurisdiction is based on their erroneous belief that the administrative proceedings at issue resulted in the adjudication of state statutory offenses. Rather, the proceedings determined only whether probable cause existed to impound the vehicle. Thus, in count XIII, plaintiffs fail to state a claim upon which relief may be granted.

¶ 47 2. *Right to a Jury Trial*

¶ 48 Plaintiffs next assert that the impoundment ordinance violates their right to a jury trial provided by (1) section 103-6 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-6 (West 2012)); (2) section 2-1105 of the Code of Civil Procedure (735 ILCS 5/2-1105 (West 2012)); (3) Illinois Supreme Court Rules 501(f) (eff. Sept. 15, 2010) and 505 (eff. Jan. 1, 1996); and (4) article I, section 13 of the Illinois Constitution (Ill. Const. 1970, art. I, § 13).

¶ 49 Initially, we note that in framing the issues on appeal, plaintiffs include the sound-device ordinance in their arguments pertaining to the right to a jury trial. However, plaintiffs' first amended complaint asserts the right to a jury trial only under the impoundment ordinance.

Thus, we limit our review to whether the right to a trial by jury exists under the impoundment ordinance.

¶ 50 a. Count IV

¶ 51 In count IV, plaintiffs allege that the impoundment ordinance violates the statutory right to a jury trial provided by section 103-6 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-6 (West 2012)) and is void *ab initio*. Section 103-6 of the Code of Criminal Procedure provides as follows:

> "Waiver of jury trial. Every person accused of an offense shall have the right to a trial by jury unless (i) understandingly waived by defendant in open court or (ii) the offense is an ordinance violation punishable by a fine only and the defendant either fails to file a demand for a trial by jury at the time of entering his or her plea of not guilty or fails to pay to the clerk of the circuit court at the time of entering his or her plea of not guilty any jury fee required to be paid to the clerk." 725 ILCS 5/103-6 (West 2012).

Plaintiffs assert that because they were charged with the violation of an ordinance punishable by a fine only, they have a statutory right to a jury trial in the circuit court.

¶ 52 Initially, we note that plaintiffs were not charged with violating an ordinance. Rather, the impoundment ordinance merely sets forth the administrative procedures to be used by defendant for the towing, impoundment, and release of vehicles where the driver of the vehicle was arrested or cited for committing an underlying felony, certain misdemeanors, or certain ordinance violations.

¶ 53 Further, the Code of Criminal Procedure of 1963 governs "the procedure in the courts of Illinois in all criminal proceedings except where provision for a different procedure is specifically provided by law." 725 ILCS 5/100-2 (West 2012). Here, the proceedings at issue are administrative in nature—not criminal proceedings in the courts of Illinois. Additionally, section 103-6 of the Code of Criminal Procedure of 1963 provides the right to a jury trial for every person accused of an offense, which is defined as "a violation of any penal statute of this State." 725 ILCS 5/102-15 (West 2012). The impoundment ordinance does not charge plaintiffs with a violation of a state penal statute, or for that matter, a violation of a municipal ordinance similar to a state penal statute. Although Calvin may have been separately charged with violating a penal statute, those proceedings are not before us. For these reasons, the right to a jury trial provided by the Code of Criminal Procedure of 1963 does not apply to the administrative proceedings in this case. Thus, in count IV, plaintiffs fail to state a claim upon which relief may be granted.

¶ 54 b. Count V

¶ 55 In count V, plaintiffs allege that the impoundment ordinance violates the statutory right to a jury trial provided in section 2-1105 of the Code of Civil Procedure (735 ILCS 5/2-1105 (West 2012)) and is void *ab initio*. Section 2-1105 of the Code of Civil Procedure provides, in relevant part, as follows:

> "Jury demand. (a) A plaintiff desirous of a trial by jury must file a demand therefor with the clerk at the time the action is commenced. A defendant desirous of a trial by jury must file a demand therefor not later than the filing of his or her answer.

Otherwise, the party waives a jury." 735 ILCS 5/2-1105 (West 2012).

¶ 56 Plaintiffs cite *City of Danville v. Hartshorn*, 53 Ill. 2d 399, 292 N.E.2d 382 (1973) to support their contention that the statutory right to a jury trial under the Code of Civil Procedure encompasses cases such as the type involved here. This case is distinguishable from *City of Danville*.

¶ 57 The defendant in *City of Danville* was arrested for violating a Danville ordinance which prohibited the hindrance, resistance, or obstruction of a city police officer—similar to the criminal offense of knowingly resisting or obstructing a peace officer. *Id*. at 399-400, 292 N.E.2d at 383. The trial court denied defendant's requests for a jury trial, conducted a bench trial, found defendant guilty of violating the ordinance, and fined him $100. *Id*. at 400, 292 N.E.2d at 383. Our supreme court concluded that the proceeding should have been considered a civil proceeding and that the trial court erred in denying the jury demand. *Id*. at 403, 292 N.E.2d at 385.

¶ 58 In this case, however, the administrative proceedings at issue do not charge persons with violating an ordinance similarly to a penal statute. Further, plaintiffs were not prosecuted for violating an ordinance similar to a penal statute and the administrative proceedings did not result in a conviction. Rather, the proceedings below relate only to the procedures for seizing and impounding vehicles. Accordingly, the right to a jury trial provided by the Code of Civil Procedure does not apply here. Thus, in count V, plaintiffs fail to state a claim upon which relief may be granted.

¶ 59 c. Count VI

¶ 60 In count VI, plaintiffs allege that the impoundment ordinance deprives persons of their right to a jury trial provided by Rules 501(f) and 505 and is void *ab initio*.

¶ 61 Rule 501(f) defines a traffic offense, in relevant part, as "[a]ny case which charges a violation of any statute, ordinance or regulation relating to the operation or use of motor vehicles." Ill S. Ct. R. 501(f) (eff. Sept. 15, 2010). According to plaintiffs' first amended complaint, the impoundment ordinance "falls within the definition of a 'traffic offense.' " We disagree.

¶ 62 While the impoundment ordinance provides for the seizure and impoundment of a vehicle which a police officer has probable cause to believe was used in the commission of certain traffic offenses, the ordinance at issue here does not charge a person with violating a statute, ordinance, or regulation relating to the operation or use of motor vehicles. Thus, contrary to plaintiffs' contention, the ordinance does not fall within the definition of a traffic offense as intended by Rule 501(f).

¶ 63 Rule 505, titled "Notice to Accused," provides, in relevant part, as follows:

> "When issuing a Uniform Citation and Complaint, a conservation complaint or a Notice to Appear in lieu of either, the officer shall also issue a written notice to the accused in substantially the following form:
>
> AVOID MULTIPLE COURT APPEARANCES
>
> If you intend to plead 'not guilty' to this charge, or if, in addition, you intend to demand a trial by jury, so notify the clerk of the court at least 10 days (excluding Saturdays, Sundays or holidays) before the day set for your appearance. A new

> appearance date will be set, and arrangements will be made to have the arresting officer present on that new date. Failure to notify the clerk of either your intention to plead 'not guilty' or your intention to demand a jury trial may result in your having to return to court, if you plead 'not guilty' on the date originally set for your court appearance." Ill. S. Ct. R. 505 (eff. Jan. 1, 1996).

¶ 64 According to the exhibits attached to plaintiffs' first amended complaint, Calvin was issued three uniform citations, which noted "court appearance required." However, these citations are separate proceedings being conducted in the Sangamon County circuit court and are not before us. Rule 505 does not apply to the administrative proceedings at issue here. Thus, in count VI, plaintiffs fail to state a claim upon which relief may be granted.

¶ 65 d. Count VII

¶ 66 In count VII, plaintiffs allege the impoundment ordinance deprives persons of their right to a jury trial pursuant to article I, section 13, of the Illinois Constitution, which provides, "[t]he right of trial by jury as heretofore enjoyed shall remain inviolate." Ill. Const. 1970, art. I, § 13. According to plaintiffs' first amended complaint, the impoundment ordinance "provides for [a] hearing before an officer on *criminal charges* and if found in default or guilty by a preponderance of the evidence imposes a substantial monetary penalty and/or loss of use of his motor vehicle." (Emphasis added.) Plaintiffs contend that "[a]ll persons charged with any one or more of the offenses enumerated in the [o]rdinance, many of which are owners of the vehicles, as well as those owners not personally arrested and charged but faced with the loss of their vehicle, and the prospect of being fined and paying towing charges and storage charges *** are/were entitled to a trial by jury in a court of law as a constitutional right."

¶ 67 In *Martin v. Heinold Commodities, Inc.*, 163 Ill. 2d 33, 72-73, 643 N.E.2d 734, 753 (1994), our supreme court noted as follows:

> " 'The constitutional provision that "the right of trial by jury as heretofore enjoyed shall remain inviolate," means that the right to a jury trial shall continue in all cases where such right existed at common law at the time the constitution was adopted, *but that constitutional provision has never been held to prohibit the legislature from creating new rights unknown to the common law and provide for their determination without a jury*. [Citation.]' (Emphasis added.) (*Standidge v. Chicago Rys. Co.* (1912), 254 Ill. 524, 532.)
>
> Moreover ' " [t]he constitutional provision *** was not intended to guarantee trial by jury in special or statutory proceedings unknown to the common law." ' *People ex rel. Keith v. Keith* (1967), 38 Ill. 2d 405, 408, quoting *People v. Niesman* (1934), 356 Ill. 322, 327."

¶ 68 Contrary to plaintiffs' assertion, the constitutional right to a jury trial does not apply to the administrative proceedings here, which were unknown to the common law. See *Lloyd A. Fry Roofing Co. v. Pollution Control Board*, 20 Ill. App. 3d 301, 310, 314 N.E.2d 350, 357-58 (1974). Further, the impoundment ordinance does not provide for a hearing on *criminal charges*, as asserted by plaintiffs. In fact, the owner of the seized vehicle need not have been the person cited for violating a criminal statute or municipal ordinance. Thus, in count VII, plaintiffs fail to state a claim upon which relief may be granted.

¶ 69 3. *Whether the Impoundment Ordinance Is Unreasonable, Arbitrary or Capricious*

¶ 70 In count XXI, plaintiffs allege the impoundment ordinance is unreasonable, arbitrary, capricious, and "bears no relationship to public health, safety or welfare." On appeal, plaintiffs assert as follows:

> "The [impoundment ordinance] is arbitrary, capricious and unreasonable, and bears no relationship to public health, safety or welfare for one or more of the following reasons: (1) [d]enies [plaintiffs] their right to a jury trial under the criminal code and civil code of procedure and [supreme court] Rules; (2) [d]enies [plaintiffs] the Fourth Amendment right to have a detached neutral magistrate determine the reasonableness of the arrest and seizure of property; (3) seizes and impounds vehicles for traffic offenses; (4) [defendant] who is the charging party in impoundment cases pays the hearing officer a monetary sum for either conducting a hearing or entering a default judgment is not impartial because the officer is being paid by one of the parties[;] *** and (5) [t]he administration of justice is of statewide interest and not a matter of local affairs."

¶ 71 Plaintiffs' argument on appeal as to count XXI is limited to two paragraphs consisting solely of conclusory statements with no citation to supporting authority. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (providing that an appellant's brief must contain an argument section that sets for the appellant's contentions "and the reasons therefor, with citation of the authorities and the pages of the record relied on"). "[A] reviewing court is not simply a

depository into which a party may dump the burden of argument and research." *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56, 4 N.E.3d 1. "Failure to comply with the rule's requirements results in forfeiture." *Id.*

¶ 72 Accordingly, because plaintiffs have failed to cite any authority to support their contentions on this issue, to the extent we have not already determined the arguments lack merit, we find them forfeited.

¶ 73 4. *Unjust-Enrichment Claim*

¶ 74 Plaintiffs' last contention on appeal—as noted in their "issues presented for review section"—is that defendant was unjustly enriched due to the fines it imposed and the sale of forfeited vehicles (count XXII). However, the sum and total of plaintiffs' argument pertaining to this issue on appeal is as follows:

> "Derivative Counts [:] Unjust Enrichment/Restitution; Conversion
>
> These counts are derivative in nature and substance."

Because plaintiffs have failed to cite any authority to support their contentions—or any argument for that matter—on this issue, we find it forfeited.

¶ 75 5. *Counts Abandoned on Appeal*

¶ 76 In closing, we note that plaintiffs have abandoned many of their claims on appeal by failing to brief them. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) ("Points not argued are waived and shall not be raised in the reply brief ***."). The abandoned claims include the following: (1) alleged civil rights violations pursuant to section 1983 of the Civil Rights Act (42 U.S.C. § 1983 (1996)) regarding the deprivation of fourth-amendment rights (count III); (2) allegation that section 1-2.1-2 of the Illinois Municipal Code (65 ILCS 5/1-2.1-2 (West 2010) prohibited defendant from adjudicating moving offenses under the Vehicle Code (count VIII);

(3) allegation that the impoundment ordinance is expressly preempted by the Vehicle Code (count IX); (4) allegation that the impoundment ordinance does not comply with the notice and procedural requirements set forth in section 11-208.7(f) and (g) of the Vehicle Code (625 ILCS 5/11-208.7(f), (g) (West 2012)) (count X); (5) allegation that the impoundment ordinance is repugnant and inconsistent with the state's Forfeiture Act and the public policy of the state and is thus preempted by state law (count XIV); (6) allegation that the impoundment ordinance violates the self-incrimination clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 10) (count XV); (7) allegation that the impoundment ordinance violates due process because defendant has a financial outcome and pays the hearing officer (count XVI); (8) allegation that the impoundment ordinance violates the compulsory joinder statute (720 ICLS 5/3-3 (West 2010)) (count XVII); (9) alleged civil-rights violations under section 1983 of the Civil Rights Act (42 U.S.C. § 1983 (1996)) regarding double jeopardy and due process (count XVIII); (10) allegations that the enactment and enforcement of the impoundment ordinance is an invalid exercise of home-rule authority under article VII, section 6(a), and article II, section 1, of the Illinois Constitution (Ill. Const. 1970, art. VII, § 6, art. II, § 1) (count XIX); (11) alleged violation of article VII, section 6(d), of the Illinois Constitution (Ill. Const. 1970, art. VII, § 6(d)) regarding the punishment for a felony (count XX); (12) alleged conversion of personal property (count XXIII); (13) assertion that an accounting and constructive trust is necessary to determine "the aggregate amount due class members" (count XXIV); and (14) a prayer for a declaration that the impoundment ordinance is illegal and unenforceable (count XXV).

¶ 77 III. CONCLUSION

¶ 78 For the reasons stated, we affirm the trial court's judgment.

¶ 79 Affirmed.