

ILLINOIS OFFICIAL REPORTS
Appellate Court

Honzik v. Department of State Police, 2013 IL App (3d) 120103

Appellate Court THOMAS J. HONZIK, Plaintiff-Appellant, v. THE DEPARTMENT OF
Caption STATE POLICE, Defendant-Appellee.

District & No. Third District
 Docket No. 3-12-0103

Filed January 31, 2013

Held Plaintiff complied with the Sex Offender Registration Act when he
(Note: This syllabus established his mother’s address as his temporary domicile by living there
constitutes no part of for 10 or more days, and then, within 10 days of “establishing” his
the opinion of the court temporary domicile, he registered that address with the local police
but has been prepared department as his temporary domicile; therefore, the denial of his petition
by the Reporter of to rescind the 10-year extension of his registration period based on his
Decisions for the failure to timely register his new address was reversed.
convenience of the
reader.)

Decision Under Appeal from the Circuit Court of Will County, No. 11-MR-417; the Hon.
Review Barbara Petrungaro, Judge, presiding.

Judgment Reversed.

Counsel on
Appeal

Thomas J. Honzik, of New Lenox, appellant *pro se*.

Lisa Madigan, Attorney General, of Chicago (Janon E. Fabiano, Assistant Attorney General, of counsel), for appellee.

Panel

JUSTICE LYTTON delivered the judgment of the court, with opinion.
Justices McDade and O'Brien concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiff, Thomas Honzik, a registered sex offender, was notified in 2009 that his registration period had been extended because he failed to timely register a change of address in 2003. Plaintiff filed a petition to rescind the extension of his sex offender registration period with the Director of State Police. The Director denied plaintiff's petition. Plaintiff then filed a complaint for administrative review in the circuit court. The court affirmed the Director's decision. We reverse.

¶ 2 FACTS

¶ 3 In 1998, plaintiff was convicted of child pornography (720 ILCS 5/11-20.1(a)(6) (West 1998)) and sentenced to 30 months' probation. As a result of his conviction, plaintiff was required, pursuant to the Sex Offender Registration Act (Act) (730 ILCS 150/1 *et seq.* (West 2002)), to register as a sex offender for 10 years. From August 1999 to July 2003, plaintiff submitted sex offender registration forms showing his address as 41 Brittany Drive, New Lenox.

¶ 4 In June 2003, plaintiff and his wife entered into a purchase agreement to build a house at 362 Heartland Drive, New Lenox. On October 16, 2003, plaintiff obtained a new driver's license, which showed his address as 362 Heartland Drive. At that time, the home on Heartland Drive was not finished. On October 20, 2003, plaintiff went to the New Lenox police station and registered his new address as 362 Heartland Drive. On or about that same date, plaintiff and his wife moved out of their home at 41 Brittany Drive.

¶ 5 After moving out of their Brittany Drive home, plaintiff and his wife stayed with plaintiff's mother-in-law in Orland Park and plaintiff's mother at 6825 South Tripp, Chicago. On November 13, 2003, plaintiff submitted a sex offender registration form to the Chicago police department, which showed that he was residing at 6825 South Tripp, Chicago. In late December, plaintiff submitted change of address forms to the police departments of Chicago and New Lenox showing that he now resided at 362 Heartland Drive, New Lenox.

¶ 6 In June 2009, the Illinois State Police sent plaintiff a letter notifying him that he had

violated the Act in November 2003, and, therefore, his 10-year registration period was extended to November 13, 2013. Plaintiff filed a petition to rescind the extension.

¶ 7 On January 20, 2011, the State Police conducted a hearing before an administrative law judge on plaintiff's petition to rescind. At the hearing, plaintiff testified that he lived at 6825 South Tripp, Chicago for 7 to 10 days before registering his address with the Chicago police department on November 13, 2003. Plaintiff's wife testified that between late October and mid-November 2003, she and plaintiff "weren't living anywhere" but were staying some nights in Orland Park with her mother and some nights at her mother-in-law's home at 6825 South Tripp, Chicago.

¶ 8 Following the hearing, the administrative law judge issued a recommended order and decision, finding as follows: "[I]t is undisputed that Registrant resided at 6825 South Tripp (or conceivably some other address, such as where another family lived) for more than ten (10) days before November 13, 2003, but did not register within that time frame. Therefore, there is a violation of the Act, mandating a ten (10) year extension." The Director of State Police adopted the recommendations of the administrative law judge and denied plaintiff's petition to rescind the extension.

¶ 9 Plaintiff then filed a complaint for administrative review in the circuit court. The court affirmed the Director's decision to deny plaintiff's petition to rescind, finding that plaintiff violated the Act because he "lived at the South Tripp address for ten days before he attempted to register in Chicago."

¶ 10 ANALYSIS

¶ 11 In an administrative review case, we review the decision of the agency, not that of the trial court. *Arlington Park Racecourse LLC v. Illinois Racing Board*, 2012 IL App (1st) 103743, ¶ 26. An agency's findings of fact are considered *prima facie* true and correct and will not be disturbed unless they are contrary to the manifest weight of the evidence. *Id.* ¶ 27. An administrative agency's decision on a question of law, such as the interpretation of a statute, is reviewed *de novo*. *Sorock v. Illinois State Board of Elections*, 2012 IL App (1st) 112740, ¶ 15. We apply plain and unambiguous statutory language as it was written by the legislature. *Id.*

¶ 12 In 2003, section 3(a)(1) of the Act required a sex offender to register, "within the time period prescribed in subsections (b) and (c) *** with the chief of police in each of the municipalities in which he or she *** resides or is temporarily domiciled for a period of time of 10 or more days." 730 ILCS 150/3(a)(1) (West 2002).¹ Section 3(b) of the Act provided that a sex offender "shall, within 10 days of *** establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a)." 730 ILCS 150/3(b) (West 2002). For purposes of section 3 of the Act, a place of residence or temporary domicile is defined as "any and all places where the sex

¹Section 3 of the Act was amended in 2008 and now provides that a sex offender must register with the chief of police in any municipality in which he resides for three or more days. See Pub. Act 95-640, § 25 (eff. June 1, 2008); 730 ILCS 150/3(a)(1) (West 2010).

offender resides for an aggregate period of time of 10 or more days during any calendar year.” 730 ILCS 150/3(a)(2) (West 2002).

¶ 13 Pursuant to section 3(b) of the Act, a sex offender does not violate the Act unless he fails to register within 10 days of “establishing a *** temporary domicile.” 730 ILCS 150/3(b) (West 2002). A temporary domicile is not established until the sex offender resides in a certain location for 10 or more days. See 730 ILCS 150/3(a), (b) (West 2002). Thus, after a sex offender resides for 10 days in a temporary domicile, he or she has an additional 10 days to register with the local chief of police. See *People v. Evans*, 365 Ill. App. 3d 374, 376-77 (2006) (sex offender violated the Act where he resided in city for an aggregate period of 10 or more days and failed to register with the chief of police “within 10 days of establishing his residence there”).

¶ 14 Here, the Director and the trial court both found that plaintiff resided at 6825 South Tripp, Chicago, for 10 days before he registered his address there and, therefore, violated the Act. However, plaintiff was not required to register his Chicago address until 10 days after he established a temporary domicile there. See 730 ILCS 150/3(a), (b) (West 2002); *Evans*, 365 Ill. App. 3d at 376-77. Because the evidence in this case showed that plaintiff resided at 6825 South Tripp for 10 days and registered his address with the Chicago police department within 10 days of establishing his temporary domicile there, the Director erred in finding that plaintiff violated the Act. The Director should have granted plaintiff’s petition to rescind the extension of his sex registration period.

¶ 15 CONCLUSION

¶ 16 For the foregoing reasons, the judgment of the trial court of Will County is reversed.

¶ 17 Reversed.