FIFTH DIVISION
October 21, 2011

No. 1-11-0161

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

HARRIS N.A.,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 10 CH 11931
	)	
KAZIMIERZ TALAR,	)	Honorable
	)	Margaret Ann Brennan,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE JOSEPH GORDON delivered the judgment of the court.

Presiding Justice Epstein and Justice McBride concurred in the judgment.

O R D E R

¶ *1* *HELD*: Because the circuit court was within its authority to enter an order appointing a standing process server in mortgage foreclosure cases, and because that order did not violate the rights of defendant, the trial court did not err in denying defendant's motion to quash service of process.

¶ 2 In March 2010, plaintiff Harris N.A. (Harris) initiated mortgage foreclosure proceedings

against defendant Kazimierz Talar (Talar) after he failed to pay the amount due on his mortgage. Service was made upon Talar by a court appointed special process server pursuant to a general administrative order in the Circuit Court of Cook County's Mortgage Foreclosure Section. Following an entry of default judgment and a judgment of foreclosure and sale, Talar filed a motion to quash service, which the trial court denied. This appeal followed.

¶ 3 I. BACKGROUND

¶ 4 On July 28, 2008, Harris, a lender, entered into a mortgage with Talar, a borrower, in which Harris lent Talar $1.75 million in exchange for a security interest in a property of Talar's in Glenview, IL. As of December 1, 2009, Talar had failed to pay the amount due on the mortgage and, accordingly, Harris filed a Complaint to Foreclose Mortgage in the Circuit Court of Cook County.

¶ 5 On April 14, 2010, Talar was served by a court appointed special process server. The special process server was appointed prior to the filing of the instant case pursuant to General Administrative Order No. 2007-03 (hereinafter "the GAO"), which provides:

> "For many years, service of summons in most mortgage foreclosure cases *** has been accomplished through the appointment of special process servers. Due to insufficient resources in personnel, equipment, and technological capabilities, the Sheriff of Cook County has been unable to effectuate service of process promptly and accurately in mortgage foreclosure cases.
>
> ***

In the year 2006, mortgage foreclosure filings in the Circuit Court of Cook County increased from 16,494 (2005 filings) to 22,248. Based upon filings for the first five (5) months of 2007, it is estimated that mortgage foreclosure filings for the year 2007 will be in excess of 30,000 cases.

Because of the increase in mortgage foreclosure filings and insufficient resources allocated to the Chancery Division's Clerk's Office, the Clerk of the Court has been unable to process promptly Motions for the Appointment of Special Process Servers and Orders Appointing Special Process Servers. *** Because of the expiration of summonses, these processing delays have created significant problems for plaintiffs' attorneys and their clients. Attempts over the pasty year to remedy the delays in the Clerk's Office have proved unsuccessful.

IT IS HEREBY ORDERED THAT:

1. Effective immediately, each law firm handling mortgage foreclosure cases in the Chancery Division may by Motion seek a Standing Order for the appointment of designated special process servers. Each Order will have a three (3) month or quarterly duration ***.

2. *** A law firm may designate one or more individuals or

> companies to serve as special process servers for each quarter of a year on all cases filed by that firm.

¶ 6 Pursuant to the GAO, upon motion of Keogh & Moody, P.C., a standing order appointing Intelex Investigations, Inc. as a special process server for mortgage foreclosure cases for the quarter ending March 31, 2010 was entered on December 15, 2009.

¶ 7 Talar did not file an answer or otherwise appear in response to Harris' complaint, and on June 22, 2010, Harris filed a motion for default against Talar. An order of default was entered on July 13, 2010, as was a judgment of foreclosure and sale. Copies of both orders were sent to Talar on July 15, 2010.

¶ 8 A judicial sale of the Glenview property was scheduled on November 5, 2010, and, following that sale, an order "Approving Report of Sale and Distribution, Confirming Sale and Order for Possession" was entered on December 13, 2010. Notice of both orders was sent to Talar.

¶ 9 On December 17, 2010, Talar, through his attorney, filed an "Appearance and Objections to Jurisdiction over the Person-Motion to Quash," arguing that service was improper because the GAO permitting the appointment of a special process server was not issued pursuant to an actual case or controversy and, consequently, the circuit court exceeded its rulemaking authority when it promulgated the GAO. The trial court denied this motion in a written order dated January 12, 2011. This appeal followed.

¶ 10 II. ANALYSIS

¶ 11 On appeal, Talar disputes the legality of the GAO, arguing that it (1) exceeds the circuit

court's rule making authority in that it violates provisions of the Illinois Constitution, the Counties Code, and the Code of Civil Procedure, (2) violates the separation of powers doctrine, (3) lacks any rational basis, (4) deprives him of his procedural due process rights, (5) deprives him of his substantive due process rights, (6) violates principles of equal protection, and (7) impermissibly privatizes public employment. For the reasons that follow, we affirm.

¶ 12 A. The Circuit Court's Rule Making Authority

¶ 13 Talar first contends that the circuit court exceeded its authority when it entered the GAO because it lacks support in *section 2-202* of the Illinois Rules of Civil Procedure, the Illinois Constitution, and the Counties Code.

¶ 14 Talar asserts that the entry of the GAO is unsupported by the Illinois Code of Civil Procedure which, he claims, mandates that the Sheriff be the entity to serve process in Cook County. *Section 2-202* of the Illinois Code of Civil Procedure provides that:

> "(a) Process shall be served by a sheriff. *** A sheriff of a county with a population of less than 2,000,000 may employ civilian personnel to serve process. In counties with a population of less than 2,000,000, process may be served, without special appointment, by a [licensed private party]. *** The court may, in its discretion upon motion, order service to be made by a private person over 18 years of age and not a party to the action. It is not necessary that service be made by a sheriff. ***

> (a-5) Upon motion and in its discretion, the court may appoint as a special process server a private detective agency ***."
>
> 735 ILCS 5/2-202 (West 2011).

¶ 15 Given this language, there can be no question that the Code permits process to be served, upon motion and at the trial court's discretion, by someone other than the Sheriff. *Subsection (a)* does not restrict the use of private process servers to counties with less than 2 million residents, but instead merely requires that in counties with more residents, special appointment is needed.

¶ 16 Nothing in the Code purports to prohibit the entry of standing orders appointing special process servers or require that service be first attempted by the Sheriff before a special process server is used. Nor does any provision purport to require that it must be a party who presents a motion, that the motion must be presented in a case already on file, or if a separate motion must be filed in every case. The Code does, however, provide that a circuit court "may make rules regulating their dockets, calendars, and business." 735 ILCS 5/1-104(b) (West 2011). In light of this language, and contrary to Talar's contentions, the entry of the GAO is not contravened by the Code of Civil Procedure.

¶ 17 Our appellate court recently addressed this same issue in a similar case also brought by Talar's counsel in *U.S. Bank, N.A. v. Dzis*, 2011 IL App (1st) 102812. There, the plaintiff sued to foreclose its mortgage on the defendant's home. Personal service was attempted by a special process server appointed under the GAO, but was unsuccessful. Following the entry of a judgment of foreclosure and the judicial sale of his home, the defendant appeared in court and

filed a motion to quash service of process on grounds that the GAO violated the Illinois Constitution and several statutes, and that the circuit court lacked the authority to enter such an order. The trial court denied the defendant's motion and he appealed. On appeal, the appellate court explicitly rejected the argument that the GAO somehow conflicted with *section 2-202*, stating "We see no conflict between the GAO and *section 2-202* of the Code. No provision in *section 2-202* restricts the circuit court from finding the sheriff disqualified from service of process for a certain class of cases, like the mortgage foreclosure cases governed by the GAO." *Dzis*, 2011 IL App (1st) 102812, ¶ 23. We see no reason to disagree with the appellate court's well reasoned opinion in *Dzis*, and decline to find that the GAO is unsupported by the Illinois Code of Civil Procedure.

¶ 18 Talar further argues that by "eliminating" the Sheriff as a process server from "an entire class of litigation," the GAO violates provisions of the Illinois Constitution, which state that the Sheriff "shall have the duties, powers or functions derived from common law or historical precedent unless altered by law or county ordinance." Ill. Const. 1970, art. VII, § (4)(d).

¶ 19 We first note that, contrary to Talar's contention, the GAO does not purport to eliminate the Sheriff as a process server from an entire class of litigation. Rather, it purports to allow for an additional, alternative method of service of process through the appointment of a standing special process server upon motion and in the circuit court's discretion. Furthermore, our Illinois constitution does not purport to vest the authority to serve process exclusively in the hands of the Sheriff, but expressly provides that the Sheriff shall have that power "unless altered by law or

county ordinance," which, in fact, has taken place here by the enactment of *section 2-202* which expressly provides for the appointment of a special process server.

¶ 20 The GAO specifically tracks the language of *section 2-202* so as to provide for the appointment of a standing special process server upon motion of any law firm engaged in mortgage foreclosure cases who so moves. We note that Talar does not challenge, nor can he, the authority of the chief judge of the mortgage foreclosure section to enter standing orders. Article VI, Section 16 of our constitution provides that the "[g]eneral administration and supervisory authority over all courts is vested in the Supreme Court and shall be exercised by the Chief Justice in accordance with its rules." Ill. Const. 1970, art. VI, § 16.[1] This provision has been applied to permit the presiding judge of a division of a circuit court, as well as the chief judge, to enter general administrative orders. *Blair v. Mackoff*, 284 Ill. App. 3d 836 (1996).

¶ 21 Talar also contends that the GAO violates the Counties Code because it makes "wholesale structural changes" to the duties of the Sheriff by "eliminating [him] from an entire class of cases." He argues that because the Counties Code provides that one of the primary duties of the Sheriff is to "serve and execute *** all warrants, process, orders and judgments of every description that may be legally directed or delivered to them," the circuit court, through the use of special process servers appointed under the GAO, usurped the Sheriff's duties. 55 ILCS 5/3-6019 (West 2011). As stated previously, contrary to Talar's assertions, the GAO does not abolish the Sheriff as a process server or mandate that a special process server be the *only* entity

[1]Similarly, *Supreme Court Rule 21*© authorizes the chief judge of a circuit court to "enter general orders in the exercise of his or her general administrative authority." *Ill. S. Ct. R. 21*© (eff. Dec. 1, 2008).

permitted to serve process, but merely provides plaintiffs with an alternate means for doing so as provided for in *section 2-202* of the Code of Civil Procedure. Nor does the Counties Code require the Sheriff to serve process in *every* case, but instead limits this duty to when he is directed to do so, which did not occur here. We are therefore unable to find anything in the Counties Code which would prevent the circuit court from entering the GAO.

¶ 22B. Separation of Powers

¶ 23 Talar next contends that the GAO violates the separation of powers doctrine because it permits the judicial branch to exercise the powers of the other branches of government by impinging on the duties of the Sheriff, who is part of the executive branch. See *Gekas v. Williamson*, 393 Ill. App. 3d 573 (2009). However, contrary to Talar's contention, the separation of powers doctrine actually supports, rather than undermines, the validity of the GAO.

¶ 24 The Illinois Constitution empowers our supreme court to "promulgate procedural rules to facilitate the judiciary in the discharge of its constitutional duties." *O'Connell v. St. Francis Hospital*, 112 Ill. 2d 273, 281 (1986). "[T]he constitutional authority to promulgate procedural rules, in certain circumstances, can be concurrent between this court and the legislature." *O'Connell*, 112 Ill. 2d at 281. In such circumstances, "where a rule of this court on a matter within the court's authority and a statute on the same subject conflict, the rule will prevail." *O'Connell*, 112 Ill. 2d at 281, quoting *People v. Cox*, 82 Ill. 2d 268, 274 (1980).

¶ 25 Talar, however, contends that rules governing the service of process are substantive in nature and, therefore, the courts are without power to change them. In support of this contention,

Talar relies upon *Danoff v. Larson*, 368 Ill. 2d 519 (1938), which held that the way a person is served with process is a matter of substantive law and, therefore, is inherently a legislative function and cannot be regulated by the courts. Specifically, the court stated "the means by which a person is summoned into court and subjected to its jurisdiction goes deeply into the substance of that person's rights, and is more than a mere matter of form." *Danoff*, 368 Ill. 2d at 521.

¶ 26 In the nearly 80 years since *Danoff* was decided our supreme court has reversed course and explicitly held that "[t]he manner and service of process is merely a step in obtaining jurisdiction of a person after he has been made party to a suit. It its therefore a matter of practice or procedure and not a matter of substantive law." *In re Pronger*, 118 Ill. 2d 512, 524 (1987). This ruling is consistent with United States Supreme Court precedent which also holds that "the manner and timing of serving process are generally nonjurisdictional matters of 'procedure' controlled by the Federal Rules." *Henderson v. United States*, 517 U.S. 654, 656, 116 S. Ct. 1638, 134 L. Ed. 2d 880 (1996). Therefore, because the circuit court has the power to adopt procedural rules governing service of process, and because these rules take precedent over conflicting statutes, we find that the circuit court was within its power to enter the GAO and did encroach upon any other branch's powers when doing so. See *Dzis*, 2011 IL App (1st) 10281, ¶ 24 (finding that "the circuit court of Cook County did not usurp the legislative power when it entered the GAO").[2]

[2] We also note that our supreme court has amended its rules to expressly permit service by third parties, further indicating that rules governing service of process are procedural in nature and, therefore, within the power of the judicial branch. See Ill. S. Ct. Rs. 11(b)(4), 12(b)(3) (eff. Dec. 29, 2009)

¶ 27 C. Improper Remedy

¶ 28 Talar next contends that there are existing statutory remedies available to those aggrieved by problems with service of process, thus obviating the need for the GAO. Because of this, he seems to contend that there is no justification for the intrusion of the judicial branch, through the GAO, into the area appropriated to the legislature under provisions of the Code. He asserts that such an intrusion violates the separation of powers doctrine because it "facilitat[es] the removal" of the Sheriff from serving process in mortgage foreclosure cases, and thus amounts to judicial rulemaking. We disagree.

¶ 29 Talar argues that provisions of Illinois law which permit a party to initiate contempt proceedings against the Sheriff for failing to serve process provide a sufficient remedy to mortgage foreclosure plaintiffs. See 55 ILCS 5/3-6020 and 735 ILCS 5/2-202(c). In support of his contention, Talar relies upon *In re General Order of October 11, 1990*, 256 Ill. App. 3d 693 (1993). There, the appellate court found that the circuit court lacked the authority to enter a general order permitting a police officer to consent to the medical examination of a minor in his custody because the order violated the separation of powers doctrine. *General Order*, 256 Ill. App. 3d at 696. Specifically, the court held that because the general order created a new law, "the court improperly exercised legislative power." *General Order*, 256 Ill. App. 3d at 696. The court went on to hold that the general order was seemingly unnecessary, finding that "[e]xisting statutes provide[d] sufficient provisions to provide necessary medical treatment to minors," such

as a statute permitting a physician to treat a minor without consent in emergency situations. *General Order*, 256 Ill. App. 3d at 698.

¶ 30 *General Order* is inapplicable to the case at bar. Here, unlike *General Order*, the circuit court did not engage in judicial rulemaking because the GAO did not create a right that did not previously exist. Instead, the GAO merely adopted the right already recognized by our legislature to have a special process server appointed in mortgage foreclosure cases so as to facilitate the promulgation of a standing order for such an appointment.

¶ 31 Moreover, Talar, has failed to show how the provisions he cited, which allow plaintiffs to initiate contempt proceedings against the Sheriff, are sufficient to remedy the problems addressed by the GAO, namely the Sheriff's inability to timely serve process in the tens of thousands of mortgage foreclosure cases on the circuit court's docket. He has also utterly failed to adduce any facts which in any way support his contention that the circuit court is "partnering with mortgage lenders and their attorneys to skirt the Code of Civil Procedure's requirements." Since we have already held that the circuit court was well within its authority to enter the GAO, in light of the undisputed problem in the mortgage foreclosure section that it seeks to address, we cannot agree with Talar that the GAO represents the wrong remedy.

¶ 32 D. Procedural Due Process

¶ 33 Talar next alleges that the GAO deprives him of his procedural due process rights because it does not provide him with the "best possible notice." He argues that utilizing special

process servers to serve process is somehow less reliable and more prone to error than relying on the Sheriff to do so. We disagree.

¶ 34 "Procedural due process protections are triggered only when a constitutionally protected liberty or property interest is at stake, to which a person has a legitimate claim of entitlement. [Citations]. Therefore, the starting point in any procedural due process analysis is a determination of whether one of those protectable interests is present, for if there is not, no process is due." *Hill v. Walker*, 241 Ill. 2d 479, 485 (2011), quoting *Wilson v. Bishop*, 82 Ill. 2d 364, 368 (1980), Thus, in order for Talar to prevail on this claim, he must first establish that he had a liberty or property interest in having the circuit court use the sheriff or an individually appointed process server, rather than using a standing process server as provided for in the GAO. If no such interest exists, then we need not consider the issue further. See *Segers v. Industrial Commission*, 191 Ill. 2d 421, 434 (2000) ("the threshold question [is] whether there exists a liberty or property interest which has been interfered with by the State").

¶ 35 Here, Talar has failed to establish a liberty or property interest here in having the Sheriff serve him process. He baldly asserts that special process servers lack the "authority and legitimacy" of a uniformed, badge wearing deputy Sheriff, and are somehow more inclined to "be tempted to shortcut the requirements for service of process," but has cited no factual support for these contentions. Our appellate court addressed and rejected this same claim in *Dzis*. There, the court held that:

> "A litigant does not have a liberty or property interest in having a particular judge hear his case, and he has no liberty or property interest in any particular method of assigning judges to hear cases. [Citation]. The litigant has even less interest in who serves him with process, and no cognizable interest in any particular method of choosing amongst statutorily qualified persons to select the person who serves him with process." *Dzis*, 2011 IL App (1st) 10281, ¶ 30.

¶ 36 Similarly, the United States District Court for the Northern District of Illinois recently addressed this same issue in an unpublished decision named *Gregory v. TCF Bank*, No. 09 C 5243, 2009 U.S. Dist. Lexis 115333 (N.D. Ill. Dec. 10, 2009). There, the court also concluded that the GAO did not violate the due process rights of defendants in foreclosure cases because they were given notice and an opportunity to be heard. *Gregory*, No. 09 C 5243, 2009 U.S. Dist. Lexis 115333, at *10.

¶ 37 Talar also contends that his procedural due process rights were violated because the standing order appointing Intelex as a special process server was not kept in his case file and, therefore, was "not readily available to those without special knowledge of the court's procedures." This, he argues, violates the Local Records Act, which provides that "[a]ll public records *** shall not be mutilated, destroyed, transferred, removed or otherwise damaged or disposed of, in whole or in part, except as provided by law." (50 ILCS 205/4 (West 2011)). We

fail to see how the GAO violates this, or any other provision of the Local Records Act. Talar has failed to provide any facts supporting his contention that the court has "conceal[ed] and/or eliminat[ed] documents that citizens have the right to readily access" and seems to ignore the fact that notice of the filing of the December 15, 2009 standing order was sent to Talar and the text of the GAO itself explicitly states where standing orders shall be kept and that they shall be available to the public.

¶ 38 Accordingly, because Talar has not identified any cognizable liberty or property interests in selecting who serves him with process, or how the use of a special process server would violate those rights, his procedural due process claim must fail.

¶ 39 E. Substantive Due Process

¶ 40 Talar next argues that the GAO deprived him of his substantive due process rights because it deprives him of his liberty and property interests against the "arbitrary taking of their homes." To demonstrate such a violation, Talar must show that the GAO deprives him of a fundamental right. *Bigelow Group, Inc. v. Rickert*, 377 Ill. App. 3d 165, 180 (2007).

¶ 41 We first note that Talar has failed to demonstrate how the "taking" of his home was in any way arbitrary. The record indicates, and he does not dispute, that he received notice of the foreclosure proceedings and an opportunity to defend himself, but failed to do so until after the court confirmed the judicial sale. Furthermore, as previously stated, a mortgage foreclosure defendant "does not have a fundamental right to have a sheriff, rather than a properly qualified private person, serve process on him, nor does he have a right to have the qualified person who

serves him with process chosen by any particular method." *Dzis*, 2011 IL App (1st) 10281, ¶32, citing 735 ILCS 5/2-202(a-5). See also *Hattery*, 183 Ill. App. 3d at 801-02. Thus, Talar is unable to demonstrate that he has been deprived of a fundamental right and, consequently, his substantive due process argument also fails.

¶ 42 Talar further contends that the GAO dispenses with "the requirements of ripeness, standing, injury in fact, and an actual case or controversy" because the standing orders are entered before an action is filed. He argues that because no action has commenced or parties identified before the orders are entered, the GAO exceeded the court's authority. We disagree.

¶ 43 We first not that Talar has failed to provide any support whatsoever for his argument that the court is without authority to appoint a special process server before the commencement of an action.

¶ 44 Under Talar's logic, any orders entered by the circuit courts pursuant to Supreme Court Rule 21(c) and 735 ILCS 5/104(a), both of which permit the courts to adopt procedural and administrative rules, would be void because they are prospective. Such logic would lead to absurd results because general orders, by their very nature, are designed to be applied prospectively, as well as concurrently. Moreover, there is nothing in the plain and unambiguous language of *section 2-202* that would prohibit the entry of such a standing order. See, *e.g.*, List of General Administrative Orders Issued Since 1995 in the Circuit Court of Cook County, http://www.cookcountycourt.org/rules/index.html (last visited Oct. 11, 2011).

¶ 45 While courts may not adjudicate a controversy prematurely, there is nothing which prohibits a court from entering or applying interim orders to govern the process by which its adjudication is affected. In that regard, we note that a challenge of the power of the court to enter administrative orders before final adjudication would question the constitutionality of *section 1-104(b)* and Supreme Court Rule 21©, which permit such orders and which Talar does not challenge. The appointment of a standing special process server under the GAO is not intended to resolve an "actual controversy" nor does it purport to resolve any substantive dispute. The fact that a standing order may be entered pursuant to the GAO before an action is commenced is immaterial. This conclusion is supported by other cases which have upheld the validity of other general orders entered by the circuit court. See *Mackoff*, 284 Ill. App. 3d 836 (upholding the validity of a general order which provided that domestic relations cases would be assigned by the clerk of the circuit court to a calendar by random electronic process) and *Hattery*, 183 Ill. App. 3d at 801 (upholding the validity of a general order which granted the presiding judge of the criminal division the power to assign cases to other judges sitting in the division). We therefore reject Talar's contention that the entry of the GAO is invalid because it dispensed with the requirements of ripeness, standing, and an actual case or ccontroversy.

¶ 46 F. Equal Protection

¶ 47 Talar further contends that by allowing the appointment of standing special process servers, the GAO deprives mortgage foreclosure defendants of the equal protection of the laws

because it treats them differently than other, similarly situated defendants. Our supreme court has set forth the following guidelines when evaluating a claim of equal protection:

> "The guarantee of equal protection requires the government to treat similarly situated individuals in a similar fashion. *Jacobson v. Department of Public Aid*, 171 Ill. 2d 314, 322 (1996). It does not prevent the government from drawing distinctions between different categories of people in enacting legislation, but it does prohibit the government from doing so on the basis of criteria wholly unrelated to the legislation's purpose. *Jacobson*, 171 Ill. 2d at 322. Where legislation does not affect a fundamental right or involve a suspect or quasi-suspect classification, the appropriate level of scrutiny is the rational basis test. *Nevitt v. Langfelder*, 157 Ill. 2d 116, 125 (1993). Under the rational basis test, a court's review of a classification is limited and deferential. *Committee for Educational Rights v. Edgar*, 174 Ill. 2d 1, 37 (1996). The court simply inquires whether the means the statute employs to achieve its purpose are rationally related to that purpose. *Jacobson*, 171 Ill. 2d at 323. If any set of facts can reasonably be conceived to justify the classification, it will not be construed as violating the equal protection guarantee. *Miller v. Rosenberg*, 196 Ill. 2d 50, 59

(2001)." *Wauconda Fire Protection District v. Stonewall Orchards*, 214 Ill. 2d 417, 434 (2005).

¶ 48 Here, the GAO distinguishes defendants facing mortgage foreclosure from defendants in other civil actions and thus creates a separate class. This class, however, does not qualify as a suspect classification and the GAO is therefore subject to rational basis review. *Dzis*, 2011 IL App (1st) 10281, ¶34, *McLean v. Department of Revenue*, 184 Ill. 2d 341, 354 (1998) (classifications based on wealth are not suspect classifications).

¶ 49 Under this standard, we cannot say that the GAO is not rationally related to achieving its purpose, namely increasing efficiency of service of process in mortgage foreclosure cases in light of the overwhelming burden the rise of these cases has placed on the Sheriff. See *Wenger v. Finley*, 185 Ill. App. 3d 907, 916 (1989) (a legislative classification had a rational basis where a statute was designed to improve efficiency of court administration).

¶ 50 G. Privatization of Public Employment

¶ 51 Talar finally contends that the GAO impermissibly outsources the work traditionally performed by the Sheriff to private special process servers.

¶ 52 In support of this contention, he cites several cases from outside jurisdictions, none of which involve similar factual situations to the one here. See *Colorado Association of Public Employees v. Department of Highways*, 809 P.2d 988 (Colo. 1991) (holding that a Colorado statute did not authorize the department to contract with private parties to perform services

historically provided by state personnel), *Konno v. County of Hawai'i*, 85 Haw. 61, 937 P.2d 397 (Haw. 1997) (finding that a contract privatizing landfills violated provisions of Hawaiian law placing certain requirements on the hiring of civil service employees), *Washington Federation of State Employees, AFL-CIO, Council 28 v. Spokane Community College*, 90 Wash. 698, 585 P.2d 474 (Wash. 1978) (holding that, absent clear authority from the legislature to the contrary, a state university's contract with a private janitorial firm was illegal because it did not comply with a Washington law regarding the procurement of services traditionally performed by civil servants). Unlike these cases, here the Illinois legislature has explicitly permitted the use of special process servers, in addition to the Sheriff, to fulfill the function of service process. As stated above, the GAO did not purport to eliminate or restrict the use of the Sheriff to serve process, but merely facilitated the procurement of a special process server through a standing order without expanding or modifying the right to their procurement already provided for in *section 2-202*. See *Dzis*, 2011 IL App (1st) 10281, ¶28 (rejecting this same contention because "[t]he GAO does not change who serves process for these cases, it only streamlines the procedure for the appointment of the private service providers."). Thus, Talar's argument that the use of special process servers "outsources" the work of public servants fails.

¶ 53 III. CONCLUSION

¶ 54 For the foregoing reasons we affirm the decision of the trial court denying Talar's motion to quash service of process.

¶ 55 AFFIRMED.