2014 IL App (1st) 13-2423-U

FOURTH DIVISION
June 12, 2014

No. 1-13-2423

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

MARSHALL D. JANEVICIUS, Plaintiff-Appellee, v. JESSE WHITE, SECRETARY OF STATE, STATE OF ILLINOIS, Defendant-Appellant.	)	Appeal from the Circuit Court of Cook County, Illinois, County Department, Chancery Division. No. 12 CH 33670 The Honorable Neil H. Cohen, Judge Presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Presiding Justice Howse and Justice Lavin concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court did not act outside of the scope of its authority when it expunged the reason for the one year-suspension of the plaintiff's driver's license from the Secretary of State's record. The circuit court acted properly within the confines of the Criminal Identification Act (20 ILCS 2630/5.2 (West 2012)).

¶ 2 In this cause of action we are asked to review the circuit court's order directing the defendant,

the Illinois Secretary of State (hereinafter the Secretary) to expunge the statutory reason for the one-year driver's license suspension entered by the Secretary against the plaintiff, Marshall Janevicius, from his driving record. After an administrative hearing, the Secretary denied the plaintiff's petition to rescind the suspension of his driver's license for possession of a fraudulent identification card, or alternatively, to issue a restricted driver's license. The plaintiff filed a complaint in the circuit court for administrative review. The circuit court found that the administrative record supported the Secretary's decision and affirmed the suspension, but granted the plaintiff leave to file a petition to expunge from the Secretary's administrative records, the statutory reason for that suspension. The circuit court then granted the plaintiff's petition to expunge and ordered the Secretary to expunge that portion of the administrative record stating the statutory reason for the plaintiff's suspension. The Secretary now appeals, contending that the circuit court acted outside of the scope of its authority when it did so. For the reasons that follow disagree.

¶ 3 III. BACKGROUND

¶ 4 The facts and procedural history reveal the following. The plaintiff was born in 1993. In March 2012, the City of Champaign Police Department (hereinafter the Champaign police) confiscated, from another individual, a purported Ohio driver's license. This driver's license depicted the name and picture of the plaintiff, and indicated that he was born on July 20, 1990, making it appear that he was over 21 years old, when he was not.

¶ 5 On March 20, 2012, the Champaign police issued a notice to appear to the plaintiff. The notice (which was in the form of a ticket or citation) charged the plaintiff with unlawful use of identification in violation of article 5, section 5-66 of the Municipal Code of Champaign (Champaign Municipal Code, art. 5, § 5-66 (2002)), which purportedly occurred on September 6,

2011.[1] The notice instructed the defendant that he could either: (1) settle the case by paying the applicable pay-by-mail amount, in this case $320, within 21 days, or (2) in the alternative appear in court and contest the matter. The back of the notice included a waiver of trial, which the plaintiff was required to sign and return with his payment, if he elected to settle the case, instead of proceed to court. The waiver of trial specifically stated:

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[1] That section of the Champaign Municipal Code states in pertinent part:

> "A person shall be guilty of unlawful use of identification if that person:
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> (1) Allows or permits the use of his/her identification card by another person who is under the age of twenty-one (21) years;
>
> (2) Is under the age of twenty-one (21) years and possesses the identification card of another;
>
> (3) Alters or defaces the date of birth or name on his/her identification card or the identification card of another;
>
> (4) Possesses an altered, defaced, forged or fraudulent identification card;
>
> (5) Possesses an identification card which recites an age different than the true age of the person to whom it was issued." Champaign Municipal Code, art. 5, § 5-66(c) (2002)).

The Champaign Municipal Code further explicitly provides that the offense of unlawful use of identification is a strict liability offense. See Champaign Municipal Code, art. 5, § 5-70 (2002) ("Except in those provisions where the mental state of knowledge, recklessness or negligence is specifically required, the violation of any prohibition or requirement contained in this chapter is hereby declared to be an absolute liability offense.") .

> "The undersigned, by signing below and tendering the required amount(s), offers to settle the case or cases alleged on the enclosed Notice(s) to Appear and deems this as final settlement of any and all claims related to the offense(s). I freely and voluntarily waive my right to plead guilty or not guilty, the right to be represented by an attorney in this matter, the right to a trial by judge or jury, the right to confront witnesses and hear the evidence against me, and the right to present witnesses and evidence on my own behalf."

The notice nowhere informed the plaintiff that by settling the municipal ordinance violation, he would nevertheless potentially remain subject to a license suspension by the Secretary of State.[2]

¶ 6 Pursuant to the instructions on the notice to appear, the plaintiff settled the matter by paying the $320 fine by mail without appearing in court. Unbeknownst to the plaintiff, the Champaign police then sent a copy of the plaintiff's citation to the Secretary of State.

¶ 7 Subsequently, on June 13, 2012, the Secretary issued the plaintiff a notice and order of a one-year suspension of his driver's license, effective June 13, 2012, through June 13, 2013. The notice declared that the ordered was "entered based on your having committed a violation of

[2] We do, however, take judicial notice of the fact that the City of Champaign website does explain that "[w]hen a person is charged with an 'Unlawful Use of I.D.' *** payment of the minimum fine in settlement of the [ordinance] violation issued does not terminate the Secretary of State's case against the person charged," and further that such a "case will proceed independently regardless of what happens to your City Court case." See *e.g.*, *Pickett v. Sheridan Health Care Center*, 664 F. 3d 632, 648 (7th Cir. 2011) (holding that a court may take judicial notice of government websites); *People v. McCurry*, 2011 IL App (1st) 093411, ¶ 9 n. 1; see also, http://ci.champaign.il.us/departments/legal/violations/

section 335-14B of the Illinois Identification Card Act." The Secretary's records concomitantly indicated a suspension of the plaintiff's driving privileges, expressly based upon the plaintiff having "committed a violation of" section 355-14B of the Illinois Identification Card Act (hereinafter the Identification Card Act) (15 ILCS 335/14B (West 2012)).[3]

¶ 8 On April 20, 2012, the plaintiff filed a petition with the Secretary requesting a formal hearing to rescind the suspension, or in the alternative, for issuance of a restricted driving permit. On May 17, 2012, the Secretary sent the plaintiff a notice of hearing, notifying him that his request for a hearing was granted and the hearing was scheduled for July 3, 2012.[4]

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[3] Section 355/14B of that Act provides in pertinent part:

"(b) It is a violation of this Section for any person:

(1) To knowingly possess, display, or cause to be displayed any fraudulent identification card;

* * *

(c) Sentence.

(1) Any person convicted of a violation of paragraph 1 of subsection (b) of this Section shall be guilty of a Class 4 felony and shall be sentenced to a minimum fine of $500 or 50 hours of community service, preferably at an alcohol abuse prevention program, if available." 15 ILCS 335/14B(b)(1), (c)(1) (West 2002)).

[4] The notice of hearing specifically stated that:

"THE PURPOSE OF SAID HEARING IS to afford you an opportunity to apply for driving privileges or contest the action of the Secretary of State *** in the suspension, revocation or denial of your driver's license and driving privileges. The action of the

¶ 9 The following testimony was adduced at the hearing. The plaintiff testified that he is 19 years old and a freshman at the University of Illinois. He acknowledged that he was contacted by Officer Ward of the Champaign police and that they met at the university library to talk. According to the plaintiff, the officer showed the plaintiff a fake driver's license and told him that it had been confiscated at the High Dive Bar in Champaign. He then asked the plaintiff if he "knew anything about this." The plaintiff testified that he never told the officer that the license was his. He stated that he never went to the High Dive Bar in Champaign and that he never used the fake license. The plaintiff, however, admitted that after his conversation with the officer, the officer issued him a notice to appear and that he subsequently "settled" that notice, by paying a $320 fine. The plaintiff nevertheless testified that he nowhere pleaded guilty as part of that settlement.

¶ 10 When asked to explain how he obtained the license, the plaintiff averred that during his first semester at the University of Illinois he received the fake driver's license in the mail postmarked from California but with no return address. The envelope contained the fake driver's license with a Post-it note on it that said, "Have fun." The plaintiff admitted that the fake license contained his photograph, but explained that it was his high school senior soccer picture, which was accessible anywhere online.

¶ 11 The plaintiff testified that he intended to destroy the fake driver's license the next time he went home. He explained that he did not destroy it while at school because he was afraid that someone would find it. As the plaintiff explained: "it was [only] the first couple of weeks of

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Secretary was taken pursuant to 625 ILCS 6/6206A14 because, THIS ORDER HEREBY ENTERED BASED ON YOUR HAVING COMMITED A VIOLATION FO SECTION 335-14B OF THE ILLINOIS IDENTIFICATION CARD ACT."

school and I didn't know if the R[esident]A[ssistant]s or people went through dorm garbage." The plaintiff explained that he just put the fake license in his desk drawer with the intent of shredding it next time he went home. He discovered it was gone three weeks later when he was packing to go back home for the weekend. The plaintiff also averred that before this incident he had had multiple problems with his roommate taking or using his things, including stealing his food and change off his desk.

¶ 12 The plaintiff offered the testimony of his mother, but the hearing officer stated that her testimony would be irrelevant since she was not present for any part of the incident.

¶ 13 The hearing officer then considered several documents that were included as exhibits into the record, including, *inter alia*: (1) the plaintiff's driving record; and (2) the Champaign police's incident report completed by Officer Daniel Ward. That incident report reveals that Sergeant Ketchum gave Officer Ward the fake Ohio driver's license with the plaintiff's information and told him to investigate. After ascertaining that the license was fake, Officer Ward contacted the plaintiff by telephone and they agreed to meet outside of the university's undergraduate library. The officer first advised the plaintiff of his *Miranda* rights. He then showed the plaintiff the fake license and asked him what he knew about it. According to the officer's report, the plaintiff "acknowledged that it was fake," but stated that "he had not ordered it." The plaintiff told the officer that a friend of his got it for him without his knowing and sent it to him at the university. The plaintiff told the officer that he received the fake license on September 6, 2011, at about 4 p.m. He also told the officer that at the time he was living in a dorm room with several roommates. The plaintiff also told the officer that the week before Halloween 2011 he was planning to go home and looked for the license in his room but could not find it. The plaintiff

denied ever going to High Dive Bar and stated that one of his roommates must have stolen the fake license from him and tried to use it at the bar.

¶ 14 Based on the plaintiff's testimony and the exhibits, the hearing officer recommended that the Secretary deny the plaintiff's petition to rescind the driver's license suspension. In doing so, the hearing officer made the following relevant findings of fact. On or about March 12, 2012, the plaintiff was found "in possession of a fictitious, unlawfully altered or fraudulent driver's license from the State of Ohio." The "the arresting officer" stated that the "fraudulent driver's license [from Ohio] was issues to [the plaintiff]" and "was confiscated at the High Dive Bar in Champaign." The plaintiff was "cited for unlawful use of identification" and "settled the case by paying $320 by mail so that he did not have to appear in Court." The plaintiff "denied ever using the fake driver's license, although he acknowledged that it did have his high school soccer picture on [it.]" The plaintiff was "in possession of [the fake driver's license] for at least 3 weeks prior to confiscation." The plaintiff "claims that he never used it to obtain alcohol or to get into bars," and that he lost it about 3 weeks after he received it anonymously in the mail. The hearing officer acknowledged the plaintiff's version of how he obtained the fake driver's license in the mail was "essentially consistent" with "the information contained in the police report [which] was used as the basis of the instant [license] revocation."[5] The hearing officer nevertheless found the plaintiff's testimony incredible, and his demeanor at the hearing unconvincing.

¶ 15 Applying the aforementioned facts to the applicable statutes, the hearing officer then

[5] We note that on several occasions, including this one, the hearing officer misspoke and incorrectly referred to the petition as involving a license revocation, rather than a license suspension.

concluded, *inter alia*, that the plaintiff had not submitted sufficient evidence to warrant rescission of the order of suspension which was entered on June 13, 2012, pursuant to section 6-206(a)(14) of the Illinois Vehicle Code (625 ILCS 6/6-206(a)(14) (West 2010)). Accordingly, the hearing officer recommended that the plaintiff's petition for the rescission of that order be denied.

¶ 16 Based on the aforementioned recommendations of the hearing officer, the Secretary issued an order, adopting the hearing officer's findings of fact and conclusions of law, and denying the plaintiff's petition.

¶ 17 On September 5, 2012, the plaintiff filed a complaint in the circuit court for administrative review of the Secretary's decision. The plaintiff asked the circuit court to vacate and reverse the Secretary's order denying his petition for rescission of his driver's license and grant any "other and further relief as may be proper and just." As its answer, the Secretary filed the administrative record. The court waived briefing, and heard arguments on April 1, 2013.

¶ 18 At the hearing, the circuit court held that under the record before it was bound to hold that the plaintiff had failed in his burden to establish that rescission of the suspension was proper since he himself twice admitted (first to the police officer and then at the administrative hearing) that he knowingly possessed the fake driver's license. The court then considered and was troubled by the collateral consequences of the plaintiff's driver's license suspension, namely that for the next seven years he would have on his driving record, the statement that his license was suspended for "illegal use of identification," which would imply dishonesty. The court explained that it wished to affirm the Secretary's decision but that it wanted to see if the parties' could come to an agreement as to "expunging the record" with regard to the plaintiff's suspension, so as to

permit him to avoid the collateral consequences of that suspension. The court then stated that it would continue the case to see if the parties could come to some agreement.

¶ 19 In response, the attorney general representing the Secretary implied that the Secretary would not agree to such expungement, explaining that he believed that the court stated that he believed the court had no authority to enter an expungement of an administrative record, since the expungement statute authorizes expungement only of criminal convictions. The parties agreed that there was no criminal conviction here, since the plaintiff was neither charged nor convicted with a criminal offense. The court then continued the case, so that the parties could brief the issue.

¶ 20 On July 1, 2013, the plaintiff was granted leave to file a petition for expungement seeking that the Secretary expunge from his driving record his violation of section 335-14B of the Identification Card Act (15 ILCS 335/14B (West 2012)).

¶ 21 On that same date, the circuit court heard the parties' arguments regarding expungement. The court granted the plaintiff's petition for expungement so as to avoid the draconian collateral consequence arising from his settlement of the municipal ordinance violation charge, namely a seven year driving record indicating that he committed a violation of the state Identification Card Act, a penal statute that, upon conviction, carries with it a Class 4 Felony sentence. As the court explained:

> " [The] plaintiff wasn't convicted of [section 335/14B of the Illinois Identification Card Act] as a matter of fact. The Secretary of State admitted that in court today. He was convicted of an ordinance violation. And, therefore, he is not guilty of a *** Class 4 felony [which a conviction under the state statute carries.] Therefore, it is an abject lie

> for the Secretary of State to say that he is. It is just wrong. And the collateral consequences are too numerous to mention.
>
> And so, I am ordering the Secretary of State to expunge this part of his abstract, not because I am sympathetic to [the plaintiff.] I'm not. As I said last time, he should be held responsible for the natural consequences of his action. But his action in this case was guilty of an ordinance violation."

¶ 22 In its written order, the circuit court first noted that this matter was before it "on the plaintiff's petition to expunge," and that the court had jurisdiction to consider such a petition. The court then granted the plaintiff' petition and ordered the Secretary to "expunge and remove all reference to a violation of 15 ILCS 335/14B from the [plaintiff's] driver's license record *** within 30 days." In the same order, the court also affirmed the decision of the Secretary to deny the plaintiff's petition for recession of the suspension of his driving privileges for one year.

¶ 23 On July 30, 2012, the Secretary filed a notice of appeal. The following day, the Secretary also filed a motion with the circuit court to stay the expungement expungement pending appeal. On August 7, 2013, the court denied the Secretary's motion to stay.[6]

¶ 24 On August 20, 2013, the plaintiff filed a petition for rule to show cause as to why the Secretary had not yet complied with the circuit court's July 1, 2013, order to expunge the plaintiff's administrative record.[7]

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[6] The parties appear to agree that there was a hearing on this issue; however, the record on appeal does not contain a transcript of that proceeding.

[7] On September 11, 2013, the circuit court entered an order dismissing the plaintiff's petition for rule to show cause as moot, since the Secretary complied with the court's July 1, 2013, order.

¶ 25 II. ANALYSIS

¶ 26 On appeal, the Secretary asks that we reverse the circuit court's order granting the plaintiff's petition to expunge. The Secretary contends that the circuit court lacked subject matter jurisdiction to order such an expungement pursuant to the Administrative Review Law (ALR) (735 ILCS 5/3-111 (West 2012)). For the reasons that follow we disagree.

¶ 27 We begin by noting that we agree with the Secretary's position that pursuant to the ALR, the trial court would have been without jurisdiction to order the expungement of the plaintiff's driving record. It is well settled that a trial court's authority in reviewing administrative decisions is limited to the powers expressed in the ALR (735 ILCS 5/3-111 (West 2012)). See *American Nat. Bank &Trust Co. v. Dep't of Revenue*, 242 Ill. App. 3d 716, 719 (1993); see also *Midland Coal Co. v. Knox County*, 268 Ill. App. 3d 458, 487 (1994) ("The [ALR] is a grant of special statutory jurisdiction to circuit courts to review final administrative agency decisions. [Citation.] Special statutory jurisdiction is limited to the language of the act conferring it, and the court has no powers from any other source. [Citation.]"). Section 3-111 of the ALR sets forth the powers of the circuit court on administrative review, including, *inter alia*, the authority to: (1) "affirm or reverse the decision of [of the administrative agency] in whole or in part;" (2) "remand for the purpose of taking additional evidence" where necessary; and (3) enter judgment as justified by the record where the circuit court affirms or partially affirms an agency's decision requiring payment of money. 735 ILCS 5/3-111(a)(5), (a)(6), (a)(7), (a)(8) (West 2012). While on review of an administrative decision, the circuit court is generally bound by the administrative record before it, section 3-111 of the ALR also permits the circuit court to reverse the agency's

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Although this order is not part of the record on appeal, we may take judicial notice of it since it is public record. See *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1059 (2009).

decision on the basis of "technical errors in the proceedings before the administrative agency" but only where "it appears to the court that such error or failure materially affected the rights of any party and resulted in substantial injustice to him or her." 735 ILCS 5/3-111(b) (West 2012). Accordingly, "[i]n actions for administrative review a circuit court's powers generally 'do not extend to granting or denying relief but are essentially limited to reviewing the decision of the administrative agency.' " *AT&T Teleholdings, Inc., v. Dep't of Revenue*, 2012 IL App (1st) 13053, ¶ 73.

¶ 28 Nevertheless, in the present case, contrary to the Secretary's argument, the circuit court did not attempt to provide relief under the ALR. Rather, the circuit court proceed by way of a separate but, related proceeding, by granting the plaintiff leave to file a petition for expungement. The record indisputably reveals that two parallel (but intertwined) proceedings took place before the circuit court on July 1, 2013. The circuit court initially reviewed the administrative review decision pursuant to the ALR and decided to affirm it. The court then granted the plaintiff leave to file an expungement petition and permitted the parties to argue the merits of that petition. After affirming the administrative decision the court granted the plaintiff's petition to expunge. Accordingly, in ordering the Secretary to remove the statutory reasons for the plaintiff's license suspension from his record, the court was not reviewing the administrative agency's decision pursuant to the ALR, but rather the plaintiff's properly filed petition to expunge, pursuant to the Criminal Identification Act (20 ILCS 2630/1 *et seq*. (West 2012)), the statute authorizing expungement. The circuit court, therefore, acted well-within its authority. See *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334-35 (2002) (explaining in depth that except in the area of administrative review, the court's "power to act," (*i.e*., its subject matter jurisdiction) "is conferred by the constitution, [and] not the

legislature," and extends to "all justiciable matters"); see also *In re M.W.*, 232 Ill. 2d 408, 424 (2009) (holding that "with the exception of the circuit court's power to review administrative action, which is conferred by statute, a circuit court's subject matter jurisdiction is conferred entirely by our state constitution.") (Internal quotations omitted); see also Ill. Const. 1970, art. VI, § 9 ("Circuit Courts shall have original jurisdiction of all justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office. Circuit Courts shall have such power to review administrative action as provided by law"); *Nation Star Mortgage, LLC v. Canale*, 2014 IL App (2d) 130676, ¶ 12 ("in order to invoke the subject matter jurisdiction of the circuit court, a plaintiff's case, as framed by the complaint or petition, must [merely] present a justiciable matter.") (Internal quotation omitted); *C.f., Wakefield v. Dep't of State Police*, 2013 IL App (5^{th}) 120303 (holding that because "expungement of criminal records is a creature of legislative enactment" an individual is eligible for expungement "on when the legislature has authorized such expungement.")

¶ 29 Under the Criminal Identification Act, a petitioner may petition the circuit court to "expunge the records of his or her arrests and charges not initiated by arrest" if: (1) he has never been convicted of a criminal offense; and (2) each arrest or charge not initiated by arrest sought to be expunged resulted in, *inter alia*, acquittal, dismissal or the petitioner's release without charging. 20 ILCS 2630/5.2(b)(1) (West 2012). When the arrest or charge not initiated by arrest sought to be expunged resulted in an acquittal, dismissal or the petitioner's release without charging, "there is no waiting period to petition for the expungement of such records." 20 ILCS 2630/5.2(b)(2) (West 2012).

¶ 30 In the present case, contrary to the Secretary's assertion, the plaintiff meets both of the

statutory requirements for expungement pursuant to section 5.2(b)(1) of the Criminal Identification Act (20 ILCS 2630/5.2(b)(1) (West 2012)). It is undisputed that the plaintiff was never convicted of a criminal offense. In addition, the plaintiff seeks to expunge from his driving record the municipal ordinance violation charge, not initiated by an arrest, which resulted in a settlement of that charge by payment of a fine, in exchange for the City of Champaign's dismissal of the case.

¶ 31 The Secretary, nevertheless contends that the plaintiff "could not have" proceeded under the Criminal Identification Act, because that act requires that the expungement petition be filed "with the clerk of the court where the arrests occurred or the charges were brought, or both." 20 ILCS 2630/5.2(d)(1) (2012). The Secretary contends that because the petition was filed in Cook County, rather than Champaign County where the municipal charges were brought against the plaintiff by way of the notice to appear (*i.e.*, citation), the circuit court had no authority to rule on the petition. We disagree. The Secretary essentially challenges the circuit court of Cook County as the proper venue for expungement. However, the Secretary, nowhere below, properly sought, a transfer of venue to Champaign County. Nor could it have succeeded on the merits of such a motion. The record that the plaintiff seeks to expunge is not part of the database of the Champaign Police Department, but rather that of the Secretary of this state. The Champaign court, where the municipal ordinance was settled, did not take any action against the plaintiff, except to dismiss the charge against him upon payment of the fine. The plaintiff's license was then sent to the Secretary, who within its discretionary powers, suspended the plaintiff's license and created the record the plaintiff now wishes to expunge. Moreover, it is undisputed that pursuant to the Vehicle Code the Secretary, itself, is only subject to the jurisdiction of the circuit courts in Cook and Sangamon counties (in Chicago and Springfield). See 625 ILCS 5/6-421

(West 2012)). Accordingly, under this record, we see nothing improper in the circuit court's decision to consider the plaintiff's petition for expungement.

¶ 32 Turning now to the merits of that petition, we initially observe that a "trial court is vested with broad discretion in ruling on petitions to expunge." *People v. Carroccia*, 352 Ill. App. 3d 1114, 1122 (2004); see also *People v. Wells*, 294 Ill. App. 3d 405, 408-409 (1998); *People v. Chesler*, 309 Ill.App.3d 145, 151-52 (1999) (applying the abuse of discretion standard in reviewing trial court's ruling on a petition to expunge). In deciding whether to grant or deny such a petition, the trial court considers the following non-exclusive list of factors: the strength of the State's case against the petitioner; the State's reasons for wishing to retain the records; the petitioner's age, criminal record and employment history; the length of time between the arrest and the expungement petition; and the adverse consequences the petitioner may suffer if expungement is not granted. *Wells*, 294 Ill. App. 3d at 409 (adopting the factors listed in *Commonwealth v. W.P.*, 417 Pa. Super. 192, 612 A. 2d 438 (1992), and noting a lack of Illinois case law on this issue).

¶ 33 Applying the aforementioned factors to the cause at bar, particularly the plaintiff's lack of criminal record, his age, and the adverse consequences that he would certainly incur whenever a future employer or graduate institution took it upon itself to run a check on his driving record if expungement were not granted, we find no abuse of discretion in the trial court's decision. Accordingly, we affirm the judgment of the circuit court.

¶ 34 III. CONCLUSION

¶ 35 For all of the aforementioned reasons, we affirm the judgment of the circuit court.

¶ 36 Affirmed.