

Illinois Official Reports

Appellate Court

Cammacho v. City of Joliet, 2022 IL App (3d) 210591

Appellate Court
Caption

ROBERT CAMMACHO JR., JAMES A. JONES, BRUCE D. OLIVER, DAVID B. SPEER, and JORGE URBINA, Plaintiffs-Appellants, v. THE CITY OF JOLIET, Defendant-Appellee.

District & No.

Third District
No. 3-21-0591

Rule 23 order filed
Motion to
publish allowed
Opinion filed

November 15, 2022

December 2, 2022
December 2, 2022

Decision Under
Review

Appeal from the Circuit Court of Will County, No. 21-MR-1420; the Hon. John C. Anderson, Judge, presiding.

Judgment

Reversed.

Counsel on
Appeal

Frank P. Andreano and Eric A. Cobb, of Andreano Law PC, of Joliet, for appellants.

Todd C. Lenzie, of Joliet, for appellee.

Panel

JUSTICE PETERSON delivered the judgment of the court, with opinion.
Justices Daugherty and Hettel concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiffs, Robert Cammacho Jr., James A. Jones, Bruce D. Oliver, David B. Speer, and Jorge Urbina, were cited for violating the defendant City of Joliet’s ordinance, which imposed weight limits for vehicles on designated roads. The citations were adjudicated through the City’s administrative process. The administrative hearing officer imposed fines against plaintiffs. The trial court affirmed the decision of an administrative officer. Plaintiffs appeal, contending that the City lacked jurisdiction to administratively adjudicate the violations in question. We reverse.

¶ 2 I. BACKGROUND

¶ 3 The City enacted ordinance 19-21, which provides: “[u]nless authorized in this division, it is unlawful to operate any vehicle in excess of twenty-four thousand (24,000) pounds (twelve (12) tons), or any vehicle with a gross vehicle weight rating greater than twenty-four thousand (24,000) pounds (12 tons), on any non-designated city road.” Joliet Code of Ordinances § 19-21 (amended Dec. 17, 2019). The City enforced this ordinance through a system of administrative adjudication.

¶ 4 Plaintiffs are commercial truck drivers who drove semitruck trailers on the City’s roadways in violation of the posted weight limit. The administrative hearing officer found plaintiffs liable for the violations and imposed a fine against each individual plaintiff.

¶ 5 Plaintiffs filed a complaint for administrative review in the trial court. Plaintiffs argued that the City lacked jurisdiction to adjudicate administrative compliance tickets for overweight offenses. Plaintiffs contended that the violations at issue were not subject to administrative adjudication under the Illinois Municipal Code. 65 ILCS 5/1-2.1-2 (West 2020). The trial court affirmed the administrative hearing officer’s decision. Plaintiffs appeal.

¶ 6 II. ANALYSIS

¶ 7 On appeal, plaintiffs contend that the trial court erred in affirming the decision of the administrative hearing officer. The facts are undisputed, and the issue presented is a question of law. Our review is *de novo*. *Griffin v. Village of New Lenox Police Pension Fund*, 2021 IL App (3d) 190557, ¶ 19.

¶ 8 Plaintiffs contend that the City lacked jurisdiction to administratively adjudicate violations of its overweight vehicle ordinance. Plaintiffs contend that the Illinois Municipal Code does not authorize the City to administratively adjudicate violations of the overweight ordinance.

¶ 9 As a home rule unit, the City “possess[es] the same powers as the state government, except where such powers are limited by the General Assembly.” *Johnson v. Halloran*, 194 Ill. 2d 493, 496-97 (2000). The City “may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State’s exercise to be

exclusive.” Ill. Const. 1970, art. VII, § 6(i). Section 1-2.1-2 of the Illinois Municipal Code authorizes systems of administrative adjudication of local code violations within the home rule authority of municipalities (65 ILCS 5/1-2.1-2 (West 2020)). See, e.g., *Catom Trucking, Inc. v. City of Chicago*, 2011 IL App (1st) 101146, ¶ 18. That power is not unlimited. Section 1-2.1-2 limits that authority by providing:

“Any municipality may provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution. A ‘system of administrative adjudication’ means the adjudication of any violation of a municipal ordinance, except for (i) proceedings not within the statutory or the home rule authority of municipalities; and (ii) any offense under the Illinois Vehicle Code [(65 ILCS 5/1-100 *et seq.* (West 2008))] or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code [(65 ILCS 5/6-204 (West 2008))].” 65 ILCS 5/1-2.1-2 (West 2020).

At issue here is subsection (ii). It creates an exception to the general authority that a municipality has to create a system of administrative adjudication. It prohibits a municipality from creating an administrative adjudication system for “any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code.” *Id.* The parties dispute whether subsection (ii) creates one or two exceptions for the types of offenses a municipality is prohibited from adjudicating administratively.

¶ 10 The First District considered this question and found that subsection (ii) creates two exceptions. See *Catom*, 2011 IL App (1st) 101146, ¶¶ 15-16. *Catom* involves similar facts to this case. There, the City of Chicago passed an ordinance requiring a special permit for overweight vehicles to be “operated or moved upon” any street or highway. (Internal quotation marks omitted.) *Id.* ¶ 18. The court in *Catom* determined that the proper reading of subsection (ii) is that it excludes “any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles,” as well as “any reportable offense under Section 6-204 of the Illinois Vehicle Code.” (Internal quotation marks omitted.) *Id.* ¶ 16. Construing the statutory language as a whole, the court concluded that subsection (ii) recognized that not every violation of the Vehicle Code or similar regulation governing the movement of vehicles is a reportable offense. *Id.* We agree with *Catom* and adopt its reasoning.

¶ 11 In reaching this conclusion, we reject the City’s argument that we should not follow *Catom*. The City maintains that *Catom* ignored the significance of the word “and” in subsection (ii). According to the City, the proper reading of subsection (ii) is that it may provide for administrative adjudication except for reportable offenses that are traffic regulations governing the movement of vehicles. In other words, the City contends that subsection (ii) contains only one exception. We are not persuaded. *Catom* rejected this same argument. It found that such an interpretation rendered “superfluous the words ‘except for any’ in [the] last sentence of subsection (ii).” *Id.* ¶ 15. The court reasoned that if the legislature intended for that interpretation, it “could have stated ‘any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles and *** reportable *** under Section 6-204 of the Illinois Vehicle Code.’ ” *Id.* (quoting 65 ILCS 5/1-2.1-2(ii) (West 2008)). Since the legislature did not write subsection (ii) in that form, the court rejected the

City's argument. We agree with *Catom* and will not depart from its interpretation of subsection (ii).

¶ 12 Having found that subsection (ii) creates two exceptions, we must consider whether the City's overweight vehicle ordinance falls within one of the two exceptions. First, we consider whether the overweight ordinance governs "any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles." 65 ILCS 5/1-2.1-2(ii) (West 2020). There is no dispute that the Illinois Vehicle Code prohibits the movement of overweight vehicles. 625 ILCS 5/15-111 (West 2020). Therefore, we must determine whether the City's overweight vehicle ordinance is a "traffic regulation governing the movement of vehicles." Upon review, we find the City's overweight vehicle ordinance governs the movement of vehicles. Consequently, the City lacked jurisdiction to administratively adjudicate violations of this ordinance. We need not consider whether violations of the ordinance are reportable offenses.

¶ 13 *Catom* considered this same question. There, the City of Chicago argued that the overweight restrictions did not regulate the movement of vehicles. Instead, Chicago argued that the ordinance only prohibited the operation (not movement) of overweight vehicles. The court rejected this argument. First, it noted that the language of the ordinance regulated whether overweight vehicles could be "operated or *moved upon*" the streets. (Emphasis in original and internal quotation marks omitted.) *Catom*, 2011 IL App (1st) 101145, ¶ 18. Chicago's municipal code also defined violations of the weight limits as "traffic violations." *Id.* Further, the violations at issue in *Catom* did not involve parking or standing violations. Plaintiff, like those in this case, was cited while driving its overweight vehicles. The court concluded that Chicago's overweight vehicle restrictions governed the movement of vehicles. Therefore, the court held that the alleged violations could not be administratively adjudicated.

¶ 14 We agree with *Catom* and conclude that the overweight vehicle ordinance in this case cannot be administratively adjudicated. The ordinance restricts the movement of vehicles by regulating the weight limits on the City's streets. It necessarily governs the movement of vehicles by placing restrictions on which of those roads certain vehicles may travel. Consequently, the administrative hearing officer lacked jurisdiction to adjudicate the violations, and the trial court erred in affirming the administrative hearing officer's decision. We reverse the trial court's judgment.

¶ 15 In reaching this conclusion, we reject the City's attempt to distinguish the facts of this case from *Catom*. The City notes that the ordinance in this case does not include the term "moved upon," whereas the ordinance in *Catom* did. The City argues that the ordinance does not regulate the movement of vehicles since it does not employ the words "moved upon." In addition, the City distinguishes *Catom* by noting that the Chicago code defined violations as traffic violations and the City's code does not. In the City's view, the overweight restriction concerns the condition of the vehicle, not the movement of the vehicle.

¶ 16 These distinctions do not change the result. Here, the City also passed an ordinance creating specific truck routes. See Joliet Code of Ordinances § 19, div. 2 (adopted Dec. 1, 2015). The City empowered local police to require any person "*driving* or in control of any vehicle not *proceeding* over a truck route or street over which truck *traffic* is permitted to proceed to any public or private scale available for the purpose of weighing and determining whether this division has been complied with." (Emphases added.) Joliet Code of Ordinances § 19-17 (adopted Dec. 1, 2015). The designated routes restrict where drivers may travel in their

vehicles. Plaintiffs were not cited while their vehicles were parked or standing. Plaintiffs were issued violations for driving their overweight vehicles on restricted roads. Accordingly, the overweight vehicle ordinance governs the movement of vehicles.

¶ 17

III. CONCLUSION

¶ 18

For the foregoing reasons, we reverse the judgment of the circuit court of Will County.

¶ 19

Reversed.