
IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

HEATHER PIERSON,	)
	) Appeal from the
Plaintiff-Appellant,	) Circuit Court of
	) Cook County.
v.	)
	) No. 23 CH 9190
THE ILLINOIS STATE POLICE,	)
	) Honorable
Defendant-Appellee.	) Caroline Kate Moreland,
	) Judge, presiding.

JUSTICE HYMAN delivered the judgment of the court, with opinion.
Justices Pucinski and Gamrath concurred in the judgment and opinion.

OPINION

¶ 1 Heather Pierson, a former Illinois State Police dispatcher, alleges her employer violated the Genetic Information Privacy Act (Act) (410 ILCS 513/1 *et seq.* (West 2024)) by requiring her to disclose genetic information as a condition of employment. The trial court dismissed her claim. The question on appeal is whether the Act waives the State’s sovereign immunity from monetary damages.

¶ 2 Because the Act does not contain an express waiver of sovereign immunity for damages against the State, we affirm.

¶ 3 Background

¶ 4 The Illinois State Police (ISP) employed Heather Pierson as a dispatcher from June 2000 until May 2022. She alleges that, during annual meetings between 2018 and 2021, ISP required her to disclose family medical history—including heart disease, cancer, and diabetes—on workers’ compensation questionnaires. After leaving ISP, she filed this class action, alleging those requests violated the Act and seeking declaratory, injunctive, and monetary relief.

¶ 5 ISP moved to dismiss under section 2-619.1 of the Code of Civil Procedure. 735 ILCS 5/2-619.1 (West 2024). Although acknowledging that the Act applies to state employees, ISP argued that sovereign immunity barred Pierson’s claim for monetary damages because the Act contains no express waiver for claims against the State. ISP also argued that Pierson lacked standing to seek injunctive relief since she no longer worked there, and, without monetary or injunctive relief, no actual controversy supported declaratory relief.

¶ 6 Pierson responded that the Act expressly waives sovereign immunity by defining “employer” to include the State. 410 ILCS 513/10 (West 2024). According to Pierson, that definition becomes meaningless if the State is not an “offending party” subject to damages.

¶ 7 Pierson also asserted that (i) she was an “aggrieved person,” entitled to seek recovery under section 40 of the Act (*id.* § 40), and (ii) seeking monetary and injunctive relief presented an “actual controversy.” The trial court dismissed the case. It held that although the Act applies to State employers, its damages provision does not expressly waive sovereign immunity, as “offending party” does not refer to the State. See *id.* Concerning Pierson’s claim for injunctive

and declaratory relief, the trial court held that she lacked standing to seek an injunction, so no “actual controversy” remained between Pierson and ISP.

¶ 8 Analysis

¶ 9 Standard of Review

¶ 10 In reviewing a dismissal under either sections 2-615 or 2-619 (735 ILCS 5/2-615, 2-619 (West 2024)), we construe the pleadings in Pierson’s favor and apply the *de novo* standard. See *Board of Education of Park Forest-Chicago Heights School District No. 163 v. Houlihan*, 382 Ill. App. 3d 604, 608 (2008). We may affirm on any basis supported by the record. *Norabuena v. Medtronic, Inc.*, 2017 IL App (1st) 162928, ¶ 14.

¶ 11 Pierson’s briefs raise one issue—the dismissal of the monetary damages claim. By not challenging dismissal of the injunctive or declaratory claims, she has forfeited them. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (“Points not argued are forfeited ***.”).

¶ 12 The Act and Sovereign Immunity

¶ 13 The Act limits “the use or disclosure of, and requests for, protected health information to the minimum necessary to accomplish an intended purpose.” 410 ILCS 513/5 (West 2024). The Act prohibits an employer (including the State) from soliciting, requesting, requiring, or purchasing genetic testing or genetic information as a condition of employment, among other protections. *Id.* § 25. A “person aggrieved by a violation of [the] Act shall have a right of action in a State circuit court *** against an offending party.” *Id.* § 40.

¶ 14 The dispositive question is whether the Act expressly authorizes damages against the State. Pierson argues that the Act waives the State’s sovereign immunity for damages by defining it as an “employer” prohibited from requesting genetic information (*id.* § 10) and allowing suit against an “offending party.” We disagree.

¶ 15 “The doctrine of sovereign immunity exists in Illinois pursuant to the Immunity Act, which mandates that the State or a department of the State cannot be a defendant in an action brought directly in the circuit court, except where the State has expressly consented to be sued.” *Watkins v. Office of the State Appellate Defender*, 2012 IL App (1st) 111756, ¶ 21. That consent needs to be “clear and unequivocal” (internal quotation marks omitted) (*In re Special Education of Walker*, 131 Ill. 2d 300, 303 (1989)) and “expressed by specific legislative authorization,” appearing in “affirmative statutory language.” *Williams v. Davenport*, 306 Ill. App. 3d 465, 469 (1999); see *Lynch v. Department of Transportation*, 2012 IL App (4th) 111040, ¶ 30 (sovereign immunity must be “clearly, unequivocally, or affirmatively” waived).

¶ 16 Pierson relies on *Department of Revenue v. Appellate Court*, 67 Ill. 2d 392 (1977), contending, “Statutes that ‘in express terms refer to the State’ manifest a consent to be sued and are adequate to authorize monetary relief against the State.” That quoted language she attributes to the decision does not appear in it. More importantly, *Department of Revenue* supports the opposite conclusion.

¶ 17 In *Department of Revenue*, our supreme court reversed an order requiring a State agency to pay court costs. *Id.* at 398. The court held that general language imposing costs did not waive sovereign immunity; consent “must appear in affirmative statutory language.” *Id.* at 396. And neither the statute nor a supreme court rule expressly referenced the State. *Id.* at 398.

¶ 18 Although sections 10 and 25 refer to the State, section 40 on damages speaks only in general terms to an “offending party.” 410 ILCS 513/40 (West 2024). That general language does not satisfy *Department of Revenue*’s express authorization of damages.

¶ 19 Pierson further contends that reading the Act as a whole shows the legislature’s intent to waive sovereign immunity, relying on *Grey v. Hasbrouck*, 2015 IL App (1st) 130267. *Grey*

does not help Pierson. In *Grey*, the court held that sovereign immunity did not bar damages because the statute expressly authorized suit “against the offending unit of government.” (Internal quotation marks omitted.) *Id.* ¶¶ 15, 20-21. The Act does not contain comparable explicit language allowing damages against the State.

¶ 20 In addition, Pierson’s argument conflates two distinct concepts. Expressly subjecting the State to the Act’s requirements does not mean the State expressly consented to damages. In other words, regulating the State as an employer does not authorize a damages action against it. Had the legislature intended to waive sovereign immunity, it knew how to say so. *Illinois State Treasurer v. Illinois Workers’ Compensation Comm’n*, 2015 IL 117418, ¶ 35.

¶ 21 Affirmed.

Pierson v. Illinois State Police, 2026 IL App (1st) 250383

Decision Under Review: Appeal from the Circuit Court of Cook County, No. 23-CH-09190; the Hon. Caroline Kate Moreland, Judge, presiding.

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