

NOTICE
Decision filed 05/07/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 241120-U
NO. 5-24-1120
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

ANDREW HUDDLESTON,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Madison County.
)	
v.)	No. 16-MR-301
)	
JESSICA TRAME, Chief of Illinois State Police)	
Firearms Services Bureau,)	Honorable
)	Andrew Carruthers,
Defendant-Appellee.)	Judge, presiding.

JUSTICE McHANEY delivered the judgment of the court.
Justices Moore and Boie concurred in the judgment.*

ORDER

- ¶ 1 *Held:* The appeal is dismissed as moot where plaintiff’s second amendment and self-incrimination challenges to firearms-licensing provisions became moot upon the restoration of his FOID card and concealed carry license, and where the public-interest and other exceptions to the mootness doctrine do not apply.
- ¶ 2 In May 2016, an *ex parte* emergency order of protection was entered against the plaintiff, Andrew Huddleston. As required by the Firearm Owners Identification Card Act Identification (FOID Card Act) (430 ILCS 65/8.2 (West 2016)), the Illinois State Police (ISP) temporarily revoked his FOID card and suspended his concealed carry license pursuant to section 70(b) of the Firearm Concealed Carry Act (Concealed Carry Act) (430 ILCS 66/70(b) (West 2016)). The order

*Justice Moore fully participated in the decision prior to his retirement. See *Cirro Wrecking Co. v. Roppolo*, 153 Ill. 2d 6 (1992).

of protection was dismissed on August 24, 2016. The plaintiff's FOID card was reinstated on July 25, 2016, and his concealed carry license was reinstated on November 4, 2016.

¶ 3 On October 19, 2016, while his concealed carry license was still suspended, the plaintiff filed an action in the circuit court seeking injunctive and declaratory relief, alleging a second amendment violation based on the temporary revocation/suspension of his FOID card and concealed carry license without prior notice or opportunity to be heard and a self-incrimination violation arising from the statutory requirement in section 9.5(a) of the FOID Card Act (430 ILCS 65/9.5(a) (West 2016)) that a firearm owner under revocation must disclose the manner in which firearms were transferred within 48 hours. On cross-motions for summary judgment, the circuit court entered judgment in favor of defendant Jeffrey Yenchko,¹ in his official capacity as Chief of Illinois State Police Firearms Services Bureau on both claims. The plaintiff appealed, arguing that the circuit court erred in denying his motion for summary judgment where he showed that the firearms statutes were unconstitutional as applied to him. For the following reasons, the appeal is dismissed as moot.

¶ 4

I. BACKGROUND

¶ 5 On May 9, 2016, Paul Oller, the husband of the plaintiff's ex-wife, filed a verified petition for an emergency order of protection on behalf of the plaintiff's 16-year-old daughter in Madison County circuit court. In the petition, the plaintiff's daughter alleged that she and the plaintiff had a verbal disagreement in a bank parking lot that escalated to the point that he slammed her against a car.²

¹The complaint named Jessica Trame, the Bureau Chief at the time, but the circuit court later substituted her for Jeffrey Yenchko, the current Bureau Chief, as the sole defendant.

²Although Oller filed the petition, the factual allegations supporting the petition were labeled as the plaintiff's daughter's "statement."

¶ 6 The petition also alleged that the plaintiff carried guns on his person and in his car. The same day, the circuit court found that the plaintiff had abused his daughter and entered an emergency order of protection prohibiting him from coming within 300 feet of her, her school, or Oller's home. The circuit court also found that good cause existed for entering the order without notifying the plaintiff because doing so likely would lead to further abuse. The circuit court provided that the emergency order would be effective for 17 days, until May 26, 2016, when a hearing on the order of protection would be held.

¶ 7 The day after the circuit court entered the protective order, the ISP notified the plaintiff that his FOID card and concealed carry license were suspended because of the emergency order of protection. They also advised the plaintiff of his obligation to submit a Firearm Disposition Record within 48 hours pursuant to section 9.5(a) of the FOID Card Act.

¶ 8 At the May 26, 2016, hearing, the circuit court noted that the emergency order had expired under its own terms and ordered, by agreement, that the plaintiff not contact any other parties to the case until June 17, 2016. On July 25, 2016, the plaintiff's FOID card was reinstated. On August 24, 2016, the circuit court dismissed the order of protection case against the plaintiff.

¶ 9 On October 19, 2016, the plaintiff filed a complaint against the defendant. The defendant filed a motion to dismiss, which the circuit court granted without prejudice. On November 4, 2016, the plaintiff's concealed carry license was reissued.

¶ 10 On September 27, 2017, the plaintiff filed a first amended complaint, the operative complaint for purposes of this appeal. In count I, the plaintiff argued that the defendant violated his second amendment rights by suspending his FOID card and concealed carry license under section 8.2 of the FOID Card Act and section 70(b) of the Concealed Carry Act, respectively, based on the emergency order of protection. In count II, the plaintiff argued that the requirement

pursuant to section 9.5(a) of the FOID Card Act that he complete a Firearm Disposition Record violated his right not to incriminate himself under the fourteenth amendment's due process clause because, by requiring "FOID card holders to disclose to the State what firearms they possessed after their FOID card was suspended," the defendant required him to admit "that they possessed firearms in the time period after their FOID card was suspended or revoked, which is a criminal offense." The plaintiff did not allege that he completed the Firearm Disposition Record, had invoked his right against self-incrimination, or faced charges for possessing a firearm without a FOID card. In count I, the plaintiff solely sought injunctive relief under 42 U.S.C. § 1983 seeking to enjoin the defendant from suspending his FOID card and/or concealed carry license. In count II the plaintiff solely sought injunctive relief under 42 U.S.C. § 1983 seeking to enjoin the defendant from enforcing section 9.5(a) of the FOID Card Act to the extent it required him to incriminate himself.

¶ 11 The defendant filed a motion to dismiss the first amended complaint, which the circuit court denied. In answer to the first amended complaint, the defendant raised both standing and mootness as affirmative defenses, asserting there was no ongoing controversy to support the plaintiff's claims for prospective, injunctive relief because the plaintiff's FOID card and concealed carry license had been reinstated.

¶ 12 1. Cross-Motions for Summary Judgment on the Second Amendment Claim

¶ 13 The parties filed cross-motions for summary judgment on the plaintiff's second amendment claim. In his motion, the plaintiff emphasized he was challenging section 8.2 of the FOID Card Act and section 70(b) of the Concealed Carry Act only insofar as they authorized the defendant to revoke firearms licenses without "notice" and an "opportunity to be heard." The plaintiff acknowledged, however, that it would be constitutional to prohibit firearms access by "those

shown to be *actually dangerous*,” including when based on an *ex parte* order of protection (emphasis in original). The plaintiff also took issue with the facts supporting the emergency order of protection, characterizing the incident as “an upset father chastising his daughter” for “marijuana use,” although he attached no affidavits or other evidence to support this characterization. The plaintiff later filed a supplement to his summary judgment motion, citing *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022). Invoking *Bruen*’s text-and-history framework for second amendment claims, the plaintiff asserted that “[t]here is no historical precedent for disarming a law abiding citizen, absent some sort of actual trial with notice and with substantial evidence presented.”

¶ 14 The defendant countered that *Bruen* requires courts to make two inquiries when evaluating second amendment claims. First, the challenger bears the burden of showing that his conduct is covered by the second amendment’s plain text. Second, if the court determines that the conduct is covered, the burden shifts to the government to show that a firearms law is consistent with the nation’s historical tradition of firearms regulation. The defendant argued that the plaintiff did not satisfy the first inquiry because the second amendment’s plain text did not protect his possession of firearms while under an emergency order of protection. The defendant also argued that, even if the plaintiff had carried his step-one burden, section 8.2 of the FOID Card Act and section 70(b) of the Concealed Carry Act were constitutional at the second step because they were consistent with a historical tradition of laws disarming individuals who pose a risk of danger and surety laws.

¶ 15 On December 9, 2022, the circuit court denied the plaintiff’s motion for summary judgment and granted the defendant’s cross-motion on the plaintiff’s second amendment claim. The circuit court found it was unclear from the complaint and various motions whether the plaintiff had raised “both facial and as-applied constitutional challenges” to section 8.2 of the FOID Card Act and

section 70(b) of the Concealed Carry Act. The circuit court determined, however, that both challenges failed at the first step of the second amendment inquiry because (1) the plaintiff forfeited any arguments related to the plain text of the second amendment by not raising them in his motion for summary judgment, and (2) forfeiture aside, the plain text of the second amendment covered the possession and carriage of arms by “law-abiding, responsible persons,” which did not include those under emergency orders of protection. The circuit court also rejected the plaintiff’s supposition that emergency orders of protection were routinely granted for frivolous reasons, pointing out that he submitted no evidence to that effect. The circuit court added that, even if the plain text covered the plaintiff’s conduct, the defendant had demonstrated an analogous historical tradition to section 8.2 of the FOID Card Act and section 70(b) of the Concealed Carry Act. Having found there was no genuine issue of disputed material fact as to the constitutionality of the suspension of the plaintiff’s FOID card or concealed carry license upon entry of a non-final order of protection, the only remaining issue before the circuit court was the plaintiff’s claim that his right against self-incrimination was violated.

¶ 16 2. Cross-Motions for Summary Judgment on the Self-Incrimination Claim

¶ 17 In 2024, the parties filed cross-motions for summary judgment on the plaintiff’s claim that the requirement of section 9.5(a) of the FOID Card Act that he complete a Firearm Disposition Record violated his right against self-incrimination. Citing section 2(a) (430 ILCS 65/2(a) (West 2022)), the plaintiff noted that while possessing a firearm without a valid FOID card is unlawful in Illinois, there was no exception to that prohibition for possessing firearms “for the first 48 hours after a FOID card is invalidated.” According to the plaintiff, therefore, completing a Firearm Disposition Record would amount to disclosure of “what firearms [he] possessed after [his] FOID card was suspended,” *i.e.*, information that “might incriminate [him].”

¶ 18 In his cross-motion, the defendant argued that the plaintiff lacked standing to challenge the Firearm Disposition Record requirement because his FOID card had been reinstated before he initiated the action, so he was not subject to the reporting requirement of section 9.5(a) of the FOID Card Act. The defendant also argued that the plaintiff's claim was moot because his FOID card had been reinstated and the statute of limitations for prosecuting a violation of section 9.5(a) had expired. Alternatively, the defendant argued that the plaintiff's claim failed on the merits. The defendant noted that when a person complies with section 9.5(a) by transferring his firearms out of his possession within 48 hours of learning that his FOID card has been suspended, completing the Firearm Disposition Record merely documents his compliance with the transfer requirement.

¶ 19 The defendant argues that adopting the plaintiff's view, by contrast, would require courts to interpret the FOID Card Act as imposing criminal liability on everyone whose FOID card is suspended at the moment of the suspension, before a party had the opportunity to comply with section 9.5(a). The defendant argued that such an interpretation would be absurd and raise constitutional concerns courts should avoid. Moreover, the plaintiff offered no evidence that he had invoked his right against self-incrimination when he was instructed to complete the Firearm Disposition Record, which would have been necessary to establish a violation of that right.

¶ 20 The circuit court denied the plaintiff's motion for summary judgment and granted the defendant's cross-motion on the plaintiff's self-incrimination claim. The circuit court first concluded that the plaintiff lacked standing to challenge section 9.5(a) because he already had been reissued a FOID card when the matter was initiated, and there was no evidence that the plaintiff was ever charged with a crime relating to unlawful possession of firearms as a result of self-reporting after his FOID card previously was revoked. Additionally, the circuit court held that section 9.5(a) did not require the plaintiff to incriminate himself, interpreting the FOID Card Act to afford him a 48-

hour period to transfer his firearms and submit the Firearm Disposition Record after learning of his FOID card's suspension without facing liability for possessing firearms without a valid FOID card. The circuit court presumed that the legislature did not intend for the absurd result of subjecting everyone who complied with section 9.5(a) to immediate prosecution. On October 11, 2024, the plaintiff filed a timely notice of appeal.

¶ 21

II. ANALYSIS

¶ 22

A. Second Amendment Challenge

¶ 23 The plaintiff first argues that the circuit court's *Bruen* analysis of his second amendment claim was flawed. In his brief, the plaintiff clarifies that, as to his second amendment claim, he is raising only an as-applied challenge to the constitutionality of section 70(b) of the Concealed Carry Act as his concealed carry license remained suspended on the date the lawsuit was filed. *Davis v. Yenchko*, 2024 IL 129751, ¶ 13 (standing is determined from the allegations in the complaint as of the date the lawsuit is filed). The defendant counters that, while the plaintiff may have standing, his second amendment challenge to section 70(b) of the Concealed Carry Act is moot because his concealed carry license was reissued before he filed his first amended complaint, and he cannot make the difficult showing that any mootness exception applies.

¶ 24 “The existence of an actual controversy is an essential requisite to appellate jurisdiction, and courts of review will generally not decide abstract, hypothetical, or moot questions.” *In re Andrea F.*, 208 Ill. 2d 148, 156 (2003). “An appeal is considered moot where it presents no actual controversy or where the issues have ceased to exist.” *Id.* Mootness generally arises on appeal when “ ‘the issues involved in the trial court no longer exist because intervening events have rendered it impossible for the reviewing court to grant effectual relief to the complaining party.’ ” *Davis*, 2024 IL 129751, ¶ 25 (quoting *In re Andrea F.*, 208 Ill. 2d at 156). An appeal will generally

be dismissed where the issue or issues before the court have become moot. *In re Andrea F.*, 208 Ill. 2d at 156.

¶ 25 Here, the plaintiff brought an as-applied second amendment challenge to section 70(b) of the Concealed Carry Act. However, because his concealed carry license was reinstated before he filed his first amended complaint, the temporary revocation provisions of the Concealed Carry Act no longer apply to him. Thus, this court is unable to grant effectual relief to the plaintiff rendering his constitutional challenge to the statute moot. “ ‘Where the issues involved in the trial court no longer exist, an appellate court will not review the cause merely to decide moot or abstract questions, to determine costs, or to establish a precedent.’ ” *Koshinski v. Trame*, 2017 IL App (5th) 150398, ¶ 19 (quoting *In re Estate of Wellman*, 174 Ill. 2d 335, 353 (1996)).

¶ 26 “Generally, a party resisting dismissal for mootness has the burden to show an exception to the mootness doctrine on at least one of three grounds: that the case involves an issue of great public importance, that the case falls into the category of one that is capable of repetition but evading review, or that there are collateral consequences of the order appealed from such that it could return to plague the complainant in some future proceedings or could affect other aspects of the complainant’s life.” *Id.* ¶ 20. The plaintiff in the instant matter did not address the mootness doctrine in his brief, nor did he file a reply brief. Accordingly, where the plaintiff has not argued on appeal that any exception to the mootness doctrine applies, he has failed to carry his burden.

¶ 27 After the appeal was briefed, but before oral argument, the defendant moved to cite a recent unpublished decision from another panel of this court as supplemental authority, *Koshinski v. Yenchko (Koshinski II)*, 2025 IL App (5th) 230009-U. We granted the defendant’s motion. Ill. S. Ct. R. 23(e)(1) (eff. Jan. 1, 2021) (providing that unpublished Rule 23 orders filed on, or after, January 1, 2021, “may be cited for persuasive purposes”). The defendant maintained that in

Koshinski II, this court recognized that the plaintiff's second amendment challenges to sections 8.2 and 70(b) were mooted by the restoration of the plaintiff's FOID card and concealed carry license, respectively. 2025 IL App (5th) 230009-U, ¶ 19. Additionally, the *Koshinski II* court held that the public-interest exception to the mootness doctrine did not apply because, once the plaintiff abandoned his facial challenge after *Koshinski I* was decided, the public-interest exception to mootness no longer applied to his remaining as-applied challenges. *Id.* ¶ 21. Although we initially granted the defendant's motion, we now find the authority proffered by the defendant is not relevant to our analysis and disposition of the issues where the plaintiff failed to argue that an exception to the mootness doctrine applies.

¶ 28 B. Right Against Self-Incrimination Challenge

¶ 29 The plaintiff next argues that the requirement of section 9.5(a) of the FOID Card Act that he complete a Firearm Disposition Record violated his right against self-incrimination. In response, the defendant raises three independent reasons why this court should uphold the grant of summary judgment on the plaintiff's self-incrimination claim. First, the plaintiff lacked standing to pursue this claim because his FOID card had been reinstated before he initiated this lawsuit. Second, his claim is moot because he no longer has to complete a Firearm Disposition Record, and any prosecution for his failure to complete that form would be time-barred. And third, section 9.5(a) did not violate the plaintiff's right against self-incrimination because it does compel the disclosure of any evidence establishing that he violated the FOID Act.

¶ 30 As previously noted, the plaintiff's FOID card and concealed carry card have been reinstated, and he fails to show any applicable exception to the mootness doctrine. Accordingly, the appeal is dismissed as moot.

¶ 31

III. CONCLUSION

¶ 32 We conclude that the plaintiff's as-applied challenge to the constitutionality of section 8.2 of the FOID Card Act and section 70(b) of the Concealed Carry Act is moot, and the plaintiff failed to establish that his challenges fall under the public-interest exception to the mootness doctrine. For the reasons stated, the appeal is dismissed as moot.

¶ 33 Appeal dismissed.