



ILLINOIS STATE POLICE
Office of the Director

Bruce Rauner
Governor

February 27, 2017

Leo P. Schmitz
Director

The Honorable Bruce Rauner
Office of the Governor
207 State House
Springfield, Illinois 62706

Dear Governor Rauner:

In accordance with 430 ILCS 65/11, a report listing "all final decisions by a court of this State upholding, reversing, or reversing in part, any administrative decisions made by the Department of State Police" concerning the Firearm Owner's Identification (FOID) Card Act must be submitted to you and the General Assembly. The Illinois State Police (ISP) received 35 decisions from the court during calendar year 2016, with respect to FOID card litigation. The following is a summary of those cases, including information regarding those that remain pending on appeal.

Administrative Review Cases

Seven decisions were issued in cases brought as an Administrative Review action. In six cases, the ISP decision was upheld. In one case, the ISP decision was reversed.

██████████ *v. State of Illinois, et al.* -- ██████████ was convicted of Disorderly Conduct on September 18, 2007, subsequent to an incident involving domestic violence. His FOID card application was denied as issuance of a FOID card is contrary to federal law pursuant to 430 ILCS 65/10(c)(4). He filed a Complaint for Administrative Review seeking relief. On July 18, 2016, the case was dismissed without prejudice. ISP decision upheld.

██████████ *v. Director of the Illinois State Police* -- ██████████ was convicted of Possession of a Controlled Substance in 1994. Due to the state and federal prohibitions pertaining to felony convictions his FOID card application was denied. He filed a Summons in Administrative Review and Petition in Kane County Circuit Court seeking relief. On August 25, 2016, an Order was entered granting plaintiff's oral motion to voluntarily dismiss his petition. ISP decision upheld.

██████████ *v. Illinois State Police, et al.* -- ██████████ was convicted of Aggravated Battery/Great Bodily Harm (forcible felony) on October 17, 2002. Due to the state and federal prohibitions pertaining to felony convictions, her FOID card application was denied. ██████████ filed a Complaint for Administrative Review in Cook County Circuit Court seeking relief. On January 27, 2016, ISP's motion to dismiss was granted. ISP decision upheld.

In Re the Matter of [REDACTED] -- [REDACTED] was convicted of Battery on January 30, 2002, following an incident involving domestic violence. As a result, [REDACTED] FOID card application was denied. [REDACTED] filed a Petition for Relief in Whiteside County alleging that the FOID Act is unconstitutional because it prevents him from receiving any relief from the firearms disability which exists because of his conviction for a misdemeanor crime of domestic violence. On April 29, 2016, the case was voluntarily dismissed. ISP decision upheld.

[REDACTED] *v. Leo P. Schmitz* -- [REDACTED] was convicted of Battery on March 12, 1999, following an incident involving domestic violence. As a result, his FOID card was revoked. He filed a Request for Circuit Court Review in Champaign County Circuit Court. We requested the Attorney General's Office provide representation to the Department to oppose the request as issuance of a FOID card is contrary to federal law pursuant to 430 ILCS 65/10(c)(4). On January 4, 2016, ISP's motion to dismiss was granted. ISP decision upheld.

[REDACTED] *v. Illinois State Police* -- [REDACTED] was convicted of Possession of a Controlled Substance in 1994. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card application was denied. On December 26, 2014, [REDACTED] received a Pardon for this felony conviction. [REDACTED] filed a Summons in Administrative Review and Complaint in Cook County Circuit Court seeking relief. On November 21, 2016, an Order was entered directing ISP to issue a FOID card. ISP decision reversed.

[REDACTED] *v. Illinois State Police* -- [REDACTED] was convicted of Delivery of a Controlled Substance on February 24, 1987; and Domestic Battery on February 21, 1996. As a result, [REDACTED] FOID card applications were denied. [REDACTED] filed a Petition for Administrative Review in Will County Circuit Court. Due to the state and federal prohibitions pertaining to felony convictions and domestic violence, ISP requested the Attorney General's Office provide representation to the Department to oppose the Petition. On June 24, 2015, an Order was entered granting ISP's motion to dismiss with prejudice. [REDACTED] appealed. On December 20, 2016, the Third District Appellate Court issued an order affirming the judgment of Will County Circuit Court to grant ISP's motion to dismiss [REDACTED] petition because he does not meet the requirements of Section 10(c)(4) of the FOID Card Act. ISP decision upheld.

Petitions for Relief Brought Under 430 ILCS 65/10

In 17 cases, the petitioner sought relief from the relevant firearm prohibition and/or an order directing ISP to issue a FOID card in the Circuit Court under the provisions of 430 ILCS 65/10. In those cases, the court denied or dismissed the petitioner's request in 8 instances. One of those cases is currently under appeal.

[REDACTED] *v. Greene County State's Attorney's Office* -- [REDACTED] was convicted of Domestic Battery on October 5, 2007. As a result, his FOID card applications were denied. Greene County entered an Order on April 14, 2014, directing ISP to issue a FOID card to [REDACTED]. Due to the state and federal prohibitions pertaining to domestic violence, ISP requested the Attorney General's Office provide representation to the Department to oppose the Order. On January 6, 2015, an Order was entered granting ISP's motion to vacate the order previously entered on April 14, 2014. [REDACTED] petition for relief from possessing a firearm was denied. [REDACTED] appealed. On March 31, 2016, an Opinion was issued affirming the Circuit Court's judgment to vacate their previous order and deny [REDACTED] petition for a FOID card. ISP decision upheld.

In the Matter of the Application of [REDACTED] [REDACTED] was convicted of Domestic Battery on May 22, 2000. Due to the federal prohibition pertaining to domestic violence, his FOID card was revoked and all subsequent applications were denied. On January 21, 2014, LaSalle County entered an order directing ISP to issue a FOID card to [REDACTED]. On December 8, 2014, an Order was entered by LaSalle County Circuit Court directing ISP to issue an unrestricted FOID card to [REDACTED]. ISP appealed. On April 11, 2016, the Third District Appellate Court reversed the decision of the trial court. ISP decision upheld.

In Re: The Matter of the FOID Card of [REDACTED] [REDACTED] was convicted of five counts of Sexual Misconduct on March 14, 2002. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card application was denied. On January 20, 2016, Wayne County entered an Order directing ISP to issue a FOID card to [REDACTED]. In reviewing the file, it is ISP's opinion that custodial sexual misconduct is a forcible felony as the victim by statute cannot consent. Per 430 ILCS 65/10(c), [REDACTED] must wait 20 years from the date of conviction in order to receive a FOID card. Since 20 years have not passed, we requested the Attorney General's Office provide representation to the Department to oppose the Order. On August 10, 2016, an Order entered granting ISP's motion to vacate the January 20, 2016, Order. ISP decision upheld.

People v. [REDACTED] was convicted of Battery on June 18, 1990, following an incident involving domestic violence. As a result [REDACTED] FOID card was revoked. An Order was entered by Bureau County on August 6, 2015, directing ISP to re-issue [REDACTED] FOID card. ISP requested the Attorney General's Office provide representation to the Department to oppose the Order as issuance of a FOID card is contrary to federal law pursuant to 430 ILCS 65/10(c)(4). On August 10, 2016, ISP's motion to dismiss was granted. ISP decision upheld. [REDACTED] filed an appeal which is still pending.

In Re: The Application of [REDACTED] [REDACTED] was convicted of Domestic Battery on June 2, 1999. Due to the federal prohibition pertaining to domestic violence, his FOID card was revoked. An Order was received by the Illinois State Police on August 20, 2013, directing ISP to issue a FOID card to [REDACTED]. On January 26, 2015, an Order was entered directing ISP to issue an unrestricted FOID card to [REDACTED]. ISP appealed. The Third District Appellate Court issues a Summary Order on April 21, 2016, reversing the judgment of LaSalle County which directed ISP to issue a FOID card to [REDACTED]. ISP decision upheld.

In the Matter of the Application of [REDACTED] [REDACTED] was convicted of Battery as a result of an incident involving domestic violence. [REDACTED] FOID card was revoked and all subsequent applications were denied as issuance of a FOID card is contrary to federal law pursuant to 430 ILCS 65/10(c)(4). On February 4, 2014, LaSalle County Circuit Court entered an order directing ISP to issue a FOID card to [REDACTED]. On May 24, 2016, the previous order dated February 4, 2014, was vacated. [REDACTED] Petition for an Order Directing ISP to issue a FOID card was denied. ISP decision upheld.

██████████ *Leo P. Schmitz, et al.* – ██████████ was convicted of Battery on May 27, 1982, following an incident involving domestic violence. His FOID card was revoked and his CCL application was denied as issuance of a FOID card is contrary to federal law pursuant to 430 ILCS 65/10(c)(4). ██████████ filed a petition in Boone County Circuit Court seeking relief. On December 12, 2016, an Order was entered affirming ISP's decision to revoke ██████████ FOID card and deny his application for a CCL. ISP decision upheld.

██████████ *v. State of Illinois* – ██████████ was convicted of Aggravated Battery (Class 3 Felony) on September 20, 1982. In addition, he was convicted of Battery on May 17, 1989, as a result of an incident involving domestic violence. ██████████ FOID card applications were subsequently denied. LaSalle County entered an order on April 7, 2014, directing ISP to issue a FOID card to ██████████. On September 9, 2014, ISP's petition to intervene was denied. ISP appealed. On November 10, 2015, an Order was entered by the Appellate Court reversing LaSalle County's decision to deny ISP's petition to intervene, and remanding the case back to LaSalle County for further proceedings. On April 22, 2016, LaSalle County granted ISP's petition to intervene and denied ██████████ FOID card application. ISP decision upheld.

The court granted relief and/or directed ISP to issue a FOID card to the petitioner in nine instances. Three of those cases are currently on appeal.

In Re: ██████████ was convicted of Possession of a Controlled Substance in Dallas County, Texas, on December 2, 1987; Possession of a Controlled Substance in Tarrant County, Texas, on December 15, 1987; and Burglary (a forcible felony) in Jersey County, Illinois, on October 6, 1978. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card application was denied. On November 25, 2014, Jersey County entered an Order directing ISP to issue a FOID card to ██████████. On February 9, 2016, ISP's Motion to Reconsider was denied. ISP appealed. On April 20, 2016, the 4th District Appellate Court denied ISP's appeal finding that ISP's appeal was untimely, and that the court lacked jurisdiction. ISP decision reversed.

██████████ *v. State of Illinois* – ██████████ was convicted of Battery on August 28, 1998, following an incident involving domestic violence. ██████████ FOID card was revoked as issuance is contrary to federal law pursuant to 430 ILCS 65/10(c)(4). An Order was issued by Saline County Circuit Court on November 11, 2014, directing ISP to issue a FOID card to ██████████. ISP requested representation from the Attorney General's Office to oppose the Order. On October 13, 2016, Saline County entered an order granting ██████████ motion to dismiss the case. ISP decision reversed. ISP has filed an appeal which is still pending.

██████████ *v. Illinois State Police, et al.* – ██████████ was convicted of Theft on July 19, 2001. Due to the state and federal prohibitions pertaining to felony convictions, ██████████ FOID card was revoked and his application for a concealed carry license was denied. He filed a complaint in Cook County Circuit Court seeking relief. On March 28, 2016, an Order and Opinion was entered finding that ██████████ disability of a delinquent adjudication from 15 years ago had been removed, and if he is otherwise eligible, he should be granted a FOID card. The judge denied ██████████ request to remand the case back to ISP to reconsider his CCL application, and finds that he first needs to have his FOID card reinstated and then, if he wishes to apply for a CCL with a valid FOID card, he may do so. ISP decision reversed.

State of Illinois v. [REDACTED] was convicted of Battery on February 19, 1985, following an incident involving domestic violence. As a result, [REDACTED] FOID card was revoked. On August 12, 2015, Gallatin County issued an Order directing ISP to issue a FOID card to [REDACTED]. ISP requested the Attorney General's Office provide representation to the Department to oppose the Order as issuance of a FOID card is contrary to federal law pursuant to 430 ILCS 65/10(c)(4). On March 7, 2016, an Order was entered denying ISP's petition to vacate. ISP decision reversed.

In Re: Firearm Owner's Identification Card for [REDACTED] was convicted of Battery on April 7, 1999, following an incident involving domestic violence. As a result, [REDACTED] FOID card applications were denied. Moultrie County Circuit Court entered an Order on March 10, 2015, directing ISP to issue a FOID card to [REDACTED]. ISP requested the Attorney General's Office provide representation to the Department to oppose the Order as issuance of a FOID card is contrary to federal law. On June 24, 2015, an Order was entered denying ISP's petition to intervene and ISP's motion to vacate the March 10, 2015, order. ISP appealed. On September 22, 2016, the Fourth District Appellate Court reversed the circuit court's denial of ISP's motion to intervene and remanded the case back to Moultrie County. On December 14, 2016, Moultrie County entered an Order directing ISP to issue a FOID card to [REDACTED]. ISP decision reversed.

[REDACTED] v. State of Illinois, et al. — [REDACTED] was convicted of Domestic Battery on April 30, 1999. Due to the state and federal prohibitions pertaining to domestic violence, his FOID card was revoked and his CCL application was denied. [REDACTED] filed a Petition for Judicial Review in Kane County Circuit Court seeking relief. The petition indicated the domestic battery conviction resulted from an altercation with [REDACTED] brother-in-law which does not qualify as a federal prohibition under 18 USC 922(g)(9). On August 29, 2016, an Order was entered granting [REDACTED] petition for relief. ISP decision reversed.

[REDACTED] v. Jefferson County State's Attorney — [REDACTED] has a 1993 conviction of Possession of Cocaine in the state of Indiana. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card application was denied. Jefferson County entered an Order on September 8, 2015, directing ISP to issue a FOID card to [REDACTED]. ISP requested the Attorney General's Office provide representation to the Department to oppose the Order. On July 21, 2016, ISP's motion to vacate the September 8, 2015, order was denied. ISP decision reversed. ISP filed an appeal which is still pending.

[REDACTED] v. Leo P. Schmitz — [REDACTED] was convicted of Theft on January 22, 1993. He received a Governor's Pardon in 2015, and the records were expunged. However, the Pardon specifically excluded the right to ship, transport, possess or receive firearms. His FOID card application was subsequently denied. [REDACTED] filed a Petition in Randolph County Circuit Court seeking relief. On September 19, 2016, an Order was entered granting relief to [REDACTED]. ISP decision reversed.

In Re: FOID Card Application of [REDACTED] — [REDACTED] was convicted of Battery on May 6, 1991, as a result of an incident involving domestic violence. [REDACTED] FOID card application was subsequently denied. DeKalb County Circuit Court entered an order on March 21, 2014, directing ISP to issue a FOID card to [REDACTED]. ISP requested that the Attorney General's Office oppose the order as it is contrary to federal law pursuant to 430 ILCS 65/10(c)(4). On November 1, 2014, ISP's petition to intervene was denied. ISP appealed. On November 24, 2015, the Appellate Court found that the trial court abused its discretion in denying ISP's petition to intervene as of right, and remanded the case back to DeKalb County. On August 31, 2016, DeKalb County found that the filing of ISP's Petition to Reinstate the case was untimely and denied it. ISP decision reversed. ISP filed an appeal which is still pending.

In 11 cases, either an Order or Agreed Order was entered resolving the case and ISP issued a FOID card to the petitioner.

[REDACTED] *v. Illinois State Police* — [REDACTED] FOID card application was denied because he was adjudicated a delinquent minor for the offense of Theft on or about November 2, 2004. [REDACTED] filed a Petition to Review Denial of Firearm Owners Identification Card in Clark County Circuit Court seeking relief. Since more than 10 years had passed and [REDACTED] had no other firearms prohibitions, ISP did not oppose any consideration for relief. On June 2, 2016, an Order was entered granting relief to [REDACTED].

[REDACTED] *v. Illinois State Police* — [REDACTED] FOID card was revoked on November 24, 2015, due to a Domestic Battery-Court Ordered Restriction on November 16, 2015. The Domestic Battery charge was subsequently nolle prosequi'd on November 25, 2015. [REDACTED] did not submit appeal documents to ISP. Instead, he filed a complaint in Cook County Circuit Court seeking relief. Since [REDACTED] had no other prohibitions, ISP reinstated his FOID card. On August 11, 2016, the Complaint was voluntarily dismissed by agreement.

[REDACTED] *v. Illinois State Police* — [REDACTED] was convicted of Theft on December 17, 1991; and Robbery (forcible felony) on December 3, 1981. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card application was denied. [REDACTED] filed a Complaint for Administrative Review in Sangamon County. Illinois statute [430 ILCS 65/10] requires that [REDACTED] petition the circuit court for relief. Per 430 ILCS 65/10(c), he must wait 20 years from the date of conviction in order to receive a FOID card. Since more than 20 years have passed and [REDACTED] has no other firearms prohibitions, ISP did not oppose any consideration for relief. On May 13, 2016, an Order was entered granting relief to [REDACTED] and directing ISP to issue a FOID card to him.

[REDACTED] *v. Hiram Grau, et al.* — [REDACTED] was convicted of Theft (Class 3 Felony) on October 11, 2005. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card application was denied. He filed Complaint for Administrative Review in Lee County which was dismissed on June 24, 2014. He filed a Petition for Relief in Cook County. On February 5, 2016, an Order was entered granting defendants' motion to dismiss since it was agreed that [REDACTED] could be scheduled for an administrative hearing. After further review of the file by ISP, it was determined that granting relief to [REDACTED] was appropriate and a FOID card was issued to him.

██████████ v. *Illinois State Police, et al.* – ██████████ was convicted of Possession of Cannabis (Class 4 Felony) on November 25, 1986. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card application was denied. ██████████ filed a Complaint for Administrative Review in DuPage County Circuit Court seeking relief. After further review, it was determined a FOID card could be issued. On March 24, 2016, an Agreed Order was entered dismissing the case with prejudice.

██████████ v. *Leo P. Schmitz, et al.* – ██████████ was the subject of a Stalking No Contact Order that was issued against him August 31, 2015, through February 29, 2016. Pursuant to 430 ILCS 65/8.2, his FOID card was revoked. He filed a Petition for Relief in Will County Circuit Court. Since the Stalking No Contact Order had expired, a FOID card was issued to ██████████. On June 23, 2016, an Order was entered dismissing the petition with prejudice.

██████████ v. *Illinois State Police* – ██████████ was adjudicated delinquent for the offense of Possession of a Controlled Substance (felony) on February 21, 2001. As a result, his FOID card application was denied. ██████████ filed a Summons in Administrative Review and Complaint in Cook County Circuit Court seeking relief. Per statute [430 ILCS 65/10(e)], the aggrieved party may petition the circuit court after ten years have passed since the adjudication of delinquency. Since more than 10 years have passed and ██████████ had no other prohibitions, ISP did not object to any consideration for relief. On January 28, 2016, an Order was entered granting relief to ██████████, and a FOID card was issued.

██████████ v. *Illinois State Police, et al.* – ██████████ was convicted of Possession of a Controlled Substance in 1992. Due to the state and federal prohibitions pertaining to felony convictions, her FOID card application was denied. ██████████ was granted a Gubernatorial Pardon in 2012 which contained the general restoration of rights language and authorized the expungement of the records. ██████████ subsequently obtained an expungement order. She filed a Summons in Administrative Review and Petition to Order Issuance of FOID Card in Cook County. Since ██████████ has no other firearms prohibitions, the Illinois State Police did not oppose any consideration for relief. On November 1, 2016, an Order was entered directing ISP to issue a FOID card to ██████████.

██████████ v. *Illinois State Police, et al.* – ██████████ was adjudicated delinquent for the offense of Robbery (forcible felony) on August 22, 1992. As a result, his FOID card application was denied. Per statute [430 ILCS 65/10(e)], the aggrieved party may petition the circuit court after ten years have passed since the adjudication of delinquency. ██████████ filed a Complaint for Administrative Review seeking relief. Since more than 10 years have passed and ██████████ had no other prohibitions, ISP did not object to any consideration for relief. On March 22, 2016, an Agreed Order was entered granting relief to ██████████, and a FOID card was issued.

██████████ v. *Cook County State's Attorney, et al.* – ██████████ was convicted of Possession of 15<100 Grams of Heroin on October 28, 1997, and sentenced to three years probation. On July 22, 2011, ██████████ received a Governor's Pardon for that conviction which permitted expungement. An expungement order was entered on September 4, 2012. In March 2016, ██████████ FOID card application was denied due to that conviction. He filed a Petition for Relief in Cook County. Since ██████████ has no other firearms prohibitions, ISP did not oppose any consideration for relief. On November 29, 2016, an Order was entered dismissing complaint without prejudice since a FOID card had been issued.

██████████ v. *Illinois State Police, et al.* – ██████████ was convicted of DUI Alcohol/Drugs on September 23, 2010, and Aggravated Driving Under the Influence Death to Another and Involuntary Manslaughter/Reckless Homicide on November 30, 2010. Due to the state and federal prohibitions pertaining to felony convictions, his FOID card application was denied. He filed a Petition for Judicial Review of Administrative Decision in Jersey County. On February 5, 2015, the Motion to Dismiss was granted since it was established that ██████████ right to review before the ISP Director had not expired and would be accepted. An administrative hearing was held on May 17, 2016. An Order was signed by ISP Director Schmitz on June 29, 2016, which granted issuance of a FOID card to ██████████.

Please contact me should you have any questions pertaining to this information.

Respectfully,

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Leo P. Schmitz
Director

cc: Honorable John J. Cullerton
Honorable James Durkin
Honorable Christine Radogno
Honorable Michael J. Madigan