

SAFETY RESPONSIBILITY UNIT:
JUDGMENTS:
DRIVER'S LICENSE:
AUTOMOBILE REGISTRATION:

A person is entitled to the restoration of his operating and registration privileges at the end of a three-year period beginning the date proof of financial responsibility was required for the return of those privileges. 2. A person who was

required to file proof of financial responsibility and who filed but failed to maintain proof is entitled to the return of his operating privileges at the expiration of three years after proof was required. He must file proof again if he desires the return of privileges during said period. 3. A judgment is presumed paid ten years after rendition, renewal or part-payment thereon, whichever comes later, and a person suspended on account of unsatisfied judgment is entitled to the return of his operating privileges at that time, subject to the future proof requirement.

August 11, 1959

Honorable A. C. Abbott
Acting Supervisor
Safety Responsibility Unit
Department of Revenue
Jefferson City, Missouri



Dear Mr. Abbott:

You recently asked our opinion as follows:

"In the administration of the Motor Vehicle Safety Responsibility Law, it has become necessary to request an official opinion of the Attorney General's Office as to the procedure to be followed by this Unit in requesting proof of financial responsibility for the future, such request originating as a result of an unsatisfied judgment, revocation, or suspension of licenses resulting from a conviction.

"Section 303.100, Missouri Revised Statutes, provides that the director shall suspend license and registration upon receipt of a certified copy of a judgment. Subsequent sections provide that the judgment debtor shall give and thereafter maintain proof of financial responsibility for the future for a period of three years.

"In the past, the procedure has been to require such proof at the end of the suspension period, and upon receipt of such proof the suspension would be lifted. At the end of the three year period, provided current proof was on file, the requirement would be terminated and our case would be closed.

"Recently, a question has arisen as to the exact

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interpretation of the statute as to the following:

(1) Is it possible for this Unit to close our files on a case at the end of the three year period if proof of responsibility is not on file at the termination date?

(2) Would the fact that 10 years or more had elapsed since a judgment was rendered, and such judgment had not been satisfied, relieve the judgment debtor of the requirements as set forth under this statute? What would this Unit require as acceptable evidence of this fact?"

After further inquiry we find that the factual situation giving rise to the first question in the opinion is as follows. A person has his license and registration suspended and under applicable law is required to furnish proof of future financial responsibility before these privileges can be returned to him. Thereafter this person either fails completely to furnish such proof or furnishes the proof for a time and then defaults before the end of the required three-year period. (See Section 303.280, RSMo Cum. Supp. 1957).

The position of your department in the past has been:

1. That no registration or license was returned when proof of financial responsibility was required as a prerequisite of its return until proof of financial responsibility was given regardless of the lapsed time.

2. That if proof of financial responsibility was given and then the proof lapsed before the expiration of the three-year period the privileges were not returned after that period unless proof was given of financial responsibility on the last day of the three-year period regardless of total lapsed time.

It is this procedure about which you inquire in your first question.

Section 303.150, RSMo Cum. Supp. 1957, reads as follows:

"1. Whenever the director, under any law of this state, suspends or revokes the license of any person upon receiving record

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of a conviction or a forfeiture of bail, the director shall also suspend the registration for all motor vehicles registered in the name of such person, except that he shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

"2. Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed, nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person, until permitted under the motor vehicle laws of this state, and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

"3. If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, or for operating a motor vehicle upon the highways without being licensed to do so, or for operating an unregistered motor vehicle upon the highways, no license shall be thereafter issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person, until he shall give and thereafter maintain proof of financial responsibility.

"4. Whenever the director suspends or revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility."

Section 303.110, RSMo Cum. Supp. 1957, deals with the situation where the person has on file against him and unsatisfied

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judgment and thereafter either stays, satisfies in full or to the extent required by law said judgment. It reads in part as follows:

"* * * nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such final judgment is stayed, satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemptions stated in sections 303.100 and 303.130. * * *"

This section also requires proof of future financial responsibility.

Section 303.280, RSMo Cum. Supp. 1957, reads as follows:

"1. The director shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the director shall direct and the state treasurer shall return to the person entitled thereto, any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the director shall waive the requirement of filing proof, in any of the following events:

"(1) At any time after three years from the date such proof was required when, during the three-year period preceding the request, the director has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom such proof was furnished; or

"(2) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

"(3) In the event the person who has given proof surrenders his license and registration to the director.

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"2. The director shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied or in the event the person who has filed such bond or deposited such money or securities, has, within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the director.

"3. Whenever any person whose proof has been canceled or returned under subdivision (3) of subsection 1 of this section applies for a license or registration within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant shall re-establish such proof for the remainder of such three-year period."

We feel that the three-year period in the foregoing statute begins to run when the director is entitled under the law to return a person's privileges providing that person provides proof of financial responsibility.

If a person has filed proof of financial responsibility but that proof has been canceled or returned under subsection (3) of section 1 of the above statute before the end of the three-year period, such person must re-establish proof of his financial responsibility if he desires the return of his privileges before the expiration of the three-year period. We feel this is clear from paragraph 3 of Section 303.280. If, however, such a person qualifies under subsection (1) of paragraph 1 in that more than three years has elapsed from the date when such proof was required and if such person also qualifies with regard to the remainder of the restrictions in that subparagraph, then we feel

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that his license should be returned to him without further requirements as to proof of his financial responsibility. It is our opinion further that a person who applies for the return of his privileges after the lapse of over three years from the date proof was required, such privileges should be restored without further requirement as to proof of financial responsibility providing the person meets the other requirements set forth in subparagraph (1) of paragraph 1 of Section 303.280, supra.

Question 2 deals with the so-called statute of limitations on judgments. Question 2 reads as follows:

"(2). Would the fact that 10 years or more has elapsed since a judgment was rendered, and such judgment had not been satisfied, relieve the judgment debtor of the requirements as set forth under this statute? What would this Unit require as acceptable evidence of this fact?"

Section 516.350, Revised Statutes of Missouri, 1949, reads as follows:

"Every judgment, order or decree of any court of record of the United States, or of this or any other state, territory or country, shall be presumed to be paid and satisfied after the expiration of ten years from the date of the original rendition thereof, or if the same has been revived upon personal service duly had upon the defendant or defendants therein, then after ten years from and after such revival, or in case a payment has been made on such judgment, order or decree, and duly entered upon the record thereof, after the expiration of ten years from the last payment so made, and after the expiration of ten years from the date of the original rendition or revival upon personal service, or from the date of the last payment, such judgment shall be conclusively presumed to be paid, and no execution, order or process shall issue thereon, nor shall any suit be brought, had or maintained thereon for any purpose whatever."

Section 303.110 requires the director to suspend all privileges when there is an unsatisfied judgment outstanding against

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an individual and not to re-issue or renew any license until such judgment is stayed, satisfied in full, or to the extent hereinafter provided.

Section 303.120 allows partial satisfaction of judgments.

Section 516.350 appears in a chapter of the statutes dealing with statutes of limitation. Its wording, however, is peculiar in that it raises a presumption of payment after the expiration of ten years. This presumption has been held by the court to be conclusive. The court draws a distinction between the presumption of payment in this statute and the ordinary bar to recovery found in other statutes of limitation. In the case of *Wormington v. City of Monett*, 218 S.W. 2d 586, the court, referring to this statute, says as follows on page 588, subsection 3:

"[3] The conclusive presumption of payment created by Section 1038, though imposing a limitation on actions on judgments, is to be distinguished from the bar of the remedy created by the usual statute of limitation. The usual statute of limitation imposes a bar to the recovery of the debt; it operates to prohibit an action upon the debt. On the other hand a presumption of payment statute such as Section 1038, wipes out or cancels the debt itself; it extinguishes the right of action. It is not concerned with the remedy because there is no right left to be enforced."

We, therefore, feel that under the law of Missouri a judgment that has not been revived or paid on for over ten years is presumed to have been paid and that such payment wipes out or cancels the debt itself as completely as if the judgment had, in fact, been satisfied by payment. It should be noted also that Section 516.350 refers to judgments of courts of record and that magistrate courts, circuit courts and courts of common pleas are all courts of record in Missouri. Therefore, this section applies to judgments from any of those courts. Since the judgment in the eyes of the law is deemed paid, the reason for the suspension of the license or registration is gone and the privileges should be returned, subject to the future proof restriction found in Section 303.110 as before noted.

We feel that any attempt to revive the judgment will be noted

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in the court record as will any payment properly made. Therefore, the clerk of court in question should certify according to the records of the court:

1. The date of the original rendition of the judgment;
2. The date of any revival upon personal service;
3. The date of any payment of record.

Proceedings to revive judgments are considered as ancillary proceedings to the original cause and will, therefore, be on file in the court rendering the judgment. (See *Buder v. Hughes*, 166 S.W. 2d 516, and *Hudson v. Wright*, 103 S.W. 8). If the record of the clerk shows that over ten years have elapsed between the present date and the date of the original rendition of the judgment and that no payments or proper proceedings to revive said judgment have been filed, the judgment should be treated as satisfied and the department should proceed accordingly. If there have been revivals of the judgment or payments made on the judgment, the date of the last recorded payment or revival, whichever is later, starts the running of the ten-year period and ten years must lapse after that date in order to satisfy the judgment under Section 516.350.

CONCLUSION

It is the opinion of this office that:

1. A person is entitled to the restoration of his operating and registration privileges at the end of a three-year period beginning the date proof of financial responsibility was required for the return of those privileges provided he meets the other qualifications set out in Section 303.280.
2. A person who was required to file proof of financial responsibility and who thereafter files but fails to maintain proof is entitled to the return of his operating and registration privileges after the end of the three-year period for which proof was originally required without filing proof of financial responsibility as of the last day of said period but such person must re-file and maintain proof of financial responsibility during said period if he desires the return of his privileges during said period.
3. A judgment is presumed to be paid ten years after its rendition if it has not been paid on of record or revived. If the judgment has been paid on or revived, it is presumed paid ten years after the last payment or revival and privileges may be returned provided the person furnishes proof of financial

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responsibility for a three-year period thereafter.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James E. Conway.

Yours very truly,

JOHN M. DALTON
Attorney General

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