

DIRECTOR OF REVENUE:
DRIVERS LICENSE:
JUDGMENTS:
MOTOR VEHICLE SAFETY
RESPONSIBILITY:

An unsatisfied judgment of a magistrate court warrants suspension of driving privileges of the defendant until it is satisfied, released, or until a period of ten years expires after rendition or revival of said

judgment or from the date of the last payment on the judgment. Failure of the plaintiff to revive such judgment after three years in no way affects the suspension of driving privileges contemplated by the Motor Vehicle Safety Responsibility Law.

OPINION NO. 25

March 11, 1969



Honorable Thomas A. David
Director, Department of Revenue
Jefferson Building
Jefferson City, Missouri 65101

Dear Mr. David:

This is in response to your recent request for an opinion of this office. Your request reads as follows:

"It has been the practice of the Safety Responsibility Unit of this department that when a persons driver's license has been suspended under Chapter 303 because of an unsatisfied judgement in a magistrate court, that the unit hold the license in suspension for a period of 10 years from the date of the rendition of the judgement. As you are aware, an execution can issue on a magistrate court judgement for a period of 3 years from the date of rendition and a magistrate court judgment can be revived any time during a period of 10 years of date of rendition.

"We would like to have your official opinion on the following question: Should the Safety Responsibility Unit of this department consider a magistrate court judgement null and void after 3 years and lift the suspension of the licenses or should that unit follow their present practice of holding the licenses in suspension for 10 years?

"If you interpret the law to mean that we must lift the suspension at the end of 3 years then

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what would the unit have to do to comply with the law if sometime during the period of 10 years and after the expiration of 3 years and after the suspension had been lifted the plaintiff revives the judgement so that execution can be issued for another 3 years? Would this unit have to issue a new expiration or not?"

For reasons hereinafter stated, we are of the opinion that your present policy is not only warranted but required by law.

Sections 303.090 and 303.100, RSMo and 303.110, RSMo Supp. 1967, set out the procedure whereby the Director of Revenue shall suspend the driving privileges of a person who fails to satisfy a judgment against him within sixty days after it becomes final. (The type of judgment contemplated is, of course, one for ". . .damages arising out of the ownership, maintenance or use of any motor vehicle;. . ." Section 303.020 (3), RSMo Supp. 1967). The suspension remains in effect as long as the judgment remains unsatisfied or until a conclusive presumption of satisfaction arises (as hereinafter discussed), or until the occurrence of certain other contingencies not relevant to this inquiry. Section 303.110, RSMo Supp. 1967.

It is correct that execution can issue on the judgment of a magistrate court only within three years of rendition thereof, unless the judgment is properly revived. Section 517.810, RSMo, reads as follows:

"No plaintiff nor his legal representative shall, at any time after the expiration of three years from the rendition of a judgment by any magistrate, sue out an execution thereon, unless such judgment shall be revived as herein directed."

A close reading of the foregoing section reveals that it does not nullify the judgment but simply imposes an additional requirement on the manner of enforcing it after three years, i.e., the necessity for formally "reviving" the judgment. Under the procedures for reviving the judgment, the burden is on the judgment-debtor ". . .to show cause, if any he has, why such judgment should not be revived; . . ." Section 517.830, RSMo. The only statutory grounds for denial of an order reviving the judgment is where the defendant can ". . .show and establish that the judgment has been paid or satisfied. . ." Section 517.850, RSMo. Thus, as contemplated by the statutes, the judgment, even after the running of the three year period, is presumed unsatisfied (and, therefore, is in effect) unless the contrary is shown and established.

Moreover, since Section 517.810 governs only the method by which a plaintiff may collect his judgment after three years, we do not believe that such considerations should in any way affect the performance of your duties with respect to the suspension of driving

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privileges. It might also be noted that we are fortified in this conclusion by the closing sentence of Section 303.110 which reads:

" . . . A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment-debtor from any of the requirements of this chapter."

That is to say, the performance of the functions of the director is in no way contingent upon the practical aspect of collectibility of the judgment in question.

On the other hand, Section 517.870, RSMo, states in part ". . . that no judgment shall be revived after the lapse of ten years from the rendition thereof, or from the date such judgment may have been last revived, . . ." And under the terms of Section 516.350, RSMo, a judgment is "conclusively presumed to be paid" after ten years have elapsed after the rendition of judgment, revival upon personal service, or last payment thereon.

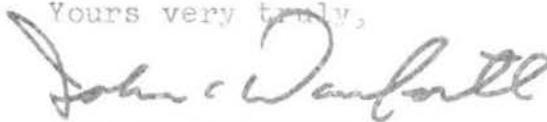
Hence, until ten years have elapsed after any of the events contemplated in Sections 517.870 and 516.350, supra, an unsatisfied judgment requires suspension of driving privileges unless such privileges are restored by some other procedure provided for by Chapter 303.

CONCLUSION

It is therefore the opinion of this office that the three year period contemplated by Section 517.810, RSMo, in no way affects or limits the functions of the Director of Revenue with respect to the suspension of driving privileges on the basis of an unsatisfied judgment of a magistrate court. However, such judgment is conclusively presumed to be satisfied after ten years have elapsed from the rendition of such judgment or from the date of revival or from the date of the last payment on the judgment and a suspension of driving privileges would terminate upon the passage of such ten year period.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Albert J. Stephan, Jr.

Yours very truly,



JOHN C. DANFORTH
Attorney General