

No. 1-11-2909

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MICHAEL V. WILKINS, SR.,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	
THE DEPARTMENT OF STATE POLICE)	No. 11 CH 10245
and PATRICK E. KEEN, Interim Director)	
of State Police,)	
)	
Defendants-Appellees)	
)	Honorable
(Iain D. Johnston, Administrative Law Judge,)	Nancy J. Arnold,
Defendant).)	Judge Presiding.

PRESIDING JUSTICE STEELE delivered the judgment of the court.
Justices Neville and Salone concurred in the judgment.

ORDER

- ¶ 1 *Held:* In administrative review action, the Department of State Police's decision to extend plaintiff's registration period as a sex offender for noncompliance with the Sex Offender Registration Act (730 ILCS 150/1 *et seq.* (West 2008)) is upheld and complies with due process (U.S. Const., amend. XIV; Ill. Const. 1970, art. I, §2).
- ¶ 2 Following administrative review proceedings in the circuit court of Cook County,

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plaintiff Michael V. Wilkins, Sr., *pro se*, appeals the circuit court's order affirming the final administrative decision by the defendant, the Department of State Police (State Police), which was signed by defendant Patrick E. Keen, its interim director, upholding a 10-year administrative extension of his registration period as a sex offender until January 22, 2014, for noncompliance with the Sex Offender Registration Act (Registration Act) (730 ILCS 150/1 *et seq.* (West 2008)). The decision adopted the recommendation made by hearing officer and defendant Iain D. Johnston¹ after an administrative hearing that Wilkins's registration period be extended to that date as he failed to register in 2002 and 2003. In December 2003, the State Police, by then-director, Larry G. Trent, issued a final administrative decision upholding an extension of his registration period when he initially failed to register timely in 2001.

¶ 3 On appeal, Wilkins primarily argues that the State Police's decision violated his due process rights under the federal and state constitutions (U.S. Const., amend. XIV; Ill. Const. 1970, art. I, §2) when the State Police allegedly failed to notify the local law enforcement agency (Park Forest police department) about the extension so that the agency could then notify him. In *People v. Molnar*, 222 Ill. 2d 495, 514-15 (2006), our Illinois Supreme Court held that the Registration Act provides sufficient notice to registrants about its requirements, including issuance of a 10-year administrative extension for failure to comply with any of its provisions, that complies with due process. Accordingly, and as discussed herein, we conclude that the State Police's decision to extend Wilkins's registration period as a sex offender to January 22, 2014,

¹After the complaint was filed and before the hearing was held, Johnston was dismissed with prejudice as a defendant pursuant to the defense's motion, and thus, is not a party on appeal.

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should stand.

¶ 4

BACKGROUND

¶ 5 On June 11, 1991, Wilkins was convicted of third-degree rape of a minor teen while on duty as a police officer in Louisville, Kentucky. He was sentenced to house arrest for four months and two years' probation. Consequently, Wilkins was subject to registration as a sex offender. In 1999, he served 18 months in a Michigan federal prison following his guilty plea to 24 counts of making false statements to the Internal Revenue Service. Shortly before his release, he signed a notice on December 23, 2000, advising him of his sex offender registration requirements upon his release. In a notice dated January 18, 2001, the Federal Bureau of Prisons advised the Park Forest police department, among other things, of Wilkins's sex offender registration requirement, his projected release date, and his projected residential address in Park Forest, Illinois.² Wilkins was required to register with the local law enforcement agency where he would reside within 10 days of his release, or by February 10, 2001. See 730 ILCS 150/3 (West 2000). He was released from prison on January 31, 2001, and scheduled for a one-year supervised release ending on January 30, 2002.

¶ 6 Following his release, Park Forest police contacted Wilkins on several occasions (February 7, 8 and 9, 2001) about registering. Wilkins insisted he was not required to register.

² The record suggests that Kentucky's registration requirements were similar to those in Illinois as Wilkins was required to register annually for 10 years following his conviction. See 730 ILCS 150/6, 150/7 (West 2000) (also noting that some offenders are subject to lifetime registration).

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On February 16, 2001, however, Wilkins registered when his parole officer brought him to the Park Forest police station. On the registration form he signed, he also initialed various provisions regarding his duty to register, including acknowledgment that he was required to register in person annually for a 10-year period and that his registration period would be administratively extended 10 years if he failed to comply with any provision of the Registration Act. As a result of his late registration, his registration period was extended 10 years under section 7 of the Registration Act (730 ILCS 150/7 (West 2000)). See also 20 Ill. Adm. Code (Code) §1280.40(a) (2000).

¶ 7 Wilkins failed to register as a sex offender in 2002 and 2003. In a letter dated February 20, 2002, to the State Police, Wilkins inquired about his file, maintained that he was no longer required to register as a sex offender, requested removal from the department's website, and questioned the extension of his registration in 2001. Leonard Goodman, an attorney, sent a letter dated March 25, 2002, to the State Police on Wilkins's behalf. Goodman also questioned the extension of Wilkins's registration and requested his removal from the registry. The State Police responded in correspondence dated April 26, 2002, that the extension of Wilkins's registration would stand as issued.

¶ 8 In a letter dated February 1, 2003, to the State Police, Wilkins acknowledged receipt of an "Official Notice to All Sex Offenders." This notice summarized amendments to the Registration Act, effective in August 2002 (see Pub. Act 92-0828 (eff. Aug. 22, 2002)), and summarized existing provisions as of 1999. He also contended that he had completed his 10-year registration requirement and requested removal from the State Police's website and mailing list.

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¶ 9 On June 27, 2003, Wilkins sent a letter to James Redlich, the State Police's legal officer, inquiring about how to remove his photo and name from the sex offender registry website and how to appeal the extension of his registration so that he could be terminated from the registry. In July 2003, the State Police appointed a hearing officer to address his objection to the extension. An administrative hearing was held on October 20, 2003, in Joliet pursuant to notice sent to Wilkins on September 9, 2003. At the hearing, Wilkins appeared *pro se* and testified on his own behalf. Following the hearing, the hearing officer issued her proposed findings and conclusions, which were adopted by the State Police in an order signed and entered by its then-Director, Larry G. Trent, on December 12, 2003. Specifically, the State Police's final decision upheld the extension of his registration period as a sex offender for his untimely registration in 2001. The order also stated that his registration period was extended to "January 31, 2021." Further, the order stated that it was subject to the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2002)). Wilkins did not seek an administrative review of this final decision in the circuit court.

¶ 10 The next time Wilkins registered as a sex offender with the Park Forest police was on January 22, 2004. He signed the registration form and initialed various provisions on the form acknowledging, among other things, that he was required to register annually and the consequences of his failure to comply with any provision of the Registration Act (a 10-year extension of the registration period). Of note, he wrote that he was "signing this against my will, per my attorney" next to his signature and the date.

¶ 11 In a letter dated February 8, 2005, the State Police informed Wilkins that his registration

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was administratively extended for 10 years for failure to comply with the Registration Act's provisions under section 7 of the Registration Act (730 ILCS 150/7 (West 2004)) and of his right to petition for relief if he believed the extension was improper. Wilkins failed to register in 2005 and 2006. In May 2005, the Cook County Sheriff's police informed a State Police staff member that an investigation revealed Wilkins was in federal custody in a Michigan prison, with a projected release in 2007. The State Police subsequently discovered that Wilkins had been incarcerated in federal prison since May 12, 2004, for a second tax-related conviction. A "Prisoner Release Notification" dated October 1, 2007, from the U.S. Bureau of Prisons was sent to the supervisor of the State Police's sex offender registration unit, along with the Illinois Attorney General and other law enforcement related entities and persons, noting Wilkins's sex offender status and anticipated release date. Wilkins was released on November 2, 2007, and registered with the Park Forest police department as a sex offender on the same date. On the registration form, which he signed, he also initialed various provisions, including those acknowledging his duty to register annually and by November 2, 2008, and the consequences of his failure to comply with any provisions of the Registration Act, *i.e.*, 10-year administrative extension of his registration period.

¶ 12 The record refers to lawsuits that Wilkins reportedly filed in federal court in 2001, and in the circuit court of Cook County (case number 07 L 13216). However, the record contains no purported pleadings filed or the disposition of regarding the lawsuits, but references Wilkins's contention that he challenged the extensions of his registration period in the actions. In an undated written request to the office of the Attorney General of the State of Illinois, Wilkins

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sought copies of any and all records pertaining to him, specifically those regarding his registration requirements, extensions for noncompliance, and "all governing articles, etc." On February 27, 2008, the State Police's sex offender registration unit sent Wilkins copies of registration forms in the department's possession per Wilkins's inquiry and as Wilkins was directed by the Attorney General's office in a letter dated February 13, 2008. The February 13 letter also referenced and enclosed section 7 of the Registration Act (730 ILCS 150/7 (West 2006)) regarding the State Police's authority, consistent with administrative rules, to extend registrations for noncompliance with the Registration Act. Furthermore, the February 27 letter noted that local law enforcement agencies were not required to send copies of the registration forms to the State Police.

¶ 13 On January 27, 2009, Wilkins sent a letter to the State Police again requesting copies of documents in the department's possession, including those pertaining to registration extensions and the current ending date of his registration period. In a letter dated April 3, 2009, addressed to Wilkins, the State Police indicated that the December 12, 2003, decision contained "a scrivener's error" in stating that his registration was extended to January 31, 2021, as February 16, 2011, was the ending date as of the date the order was signed. The letter also reiterated the State Police's authority to extend registration periods for 10 years under the Registration Act. Further, the letter confirmed that Wilkins registered on January 22, 2004, and that he failed to register in 2005. Moreover, the letter noted he became compliant when he registered on November 2, 2007, and indicated his registration period was extended for 10 years under section 7 of the Registration Act until "November 2, 1017." Lastly, the letter indicated Wilkins's right to petition for relief if

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he believed that his registration period was improperly extended.

¶ 14 On June 16, 2009, Wilkins filed a petition for relief regarding the extensions of his registration period. On August 5, 2009, the State Police's sex offender registration unit confirmed receipt and processing of Wilkins's request for an administrative hearing.

¶ 15 On October 16, 2009, the State Police, by its statewide investigative support sex offender registration unit, sent Wilkins a letter advising him of his duty to register as a sex offender in person for 10 years with the local law enforcement agency having jurisdiction where he resided and that he had to register the next time a year from the date of his last registration on November 1, 2008. Wilkins subsequently signed and submitted sex offender registration forms with the Park Forest police on November 1, 2008, November 1, 2009, and November 1, 2010. The registration forms, which he signed, contained various provisions that he initialed, including, but not limited to, his annual duty to register and the consequences of his noncompliance with any provision of the Registration Act (10-year administrative extension of his registration). Additionally, the 2008-10 registration forms contained a different Park Forest address than that provided on the 2001, 2004 and 2007 forms.

¶ 16 On January 20, 2011, an administrative hearing was conducted in Joliet. Wilkins was represented at the hearing by counsel, Zaid Abdallah. The parties stipulated in writing that the documents contained in his file with the State Police were business records to be admitted into evidence as a joint exhibit at the hearing. In addition to the parties' attorneys, Wilkins also signed the stipulation. The proceedings were tape-recorded. Shortly after the hearing began, Wilkins's counsel introduced two documents pertaining to Wilkins's 2004 incarceration,

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including the notice of release, which were also admitted into evidence.

¶ 17 At the hearing, Wilkins testified on his own behalf. Wilkins testified that he was currently on disability and was a minister at his church. He stated that his registration period was extended from 2001 to 2011, because he was six days late when he first registered in 2001. Wilkins also testified that he turned himself in to authorities on May 12, 2004, he was released from prison in November 2007, and he registered on his release date. Additionally, he testified that he was informed at some point that his registration was extended to "November 1017," although he thought it should have been 2017. He stated that the extension, to the best of his knowledge, was based upon the belief that he was not in compliance again when he was incarcerated.

¶ 18 On cross-examination, Wilkins testified that he was imprisoned in May 2004 for tax charges. He stated that he believed he was notified of the duty to register prior to his release from federal prison. Wilkins admitted that the registration form he signed in 2001 indicated when he had to register and that he had to register for 10 years. He also admitted that the form indicated he had to register by February 16, 2002. Wilkins further acknowledged his signature on the January 22, 2004, registration form, which was submitted prior to his imprisonment in May 2004. After declining to conduct redirect examination and presenting no additional witnesses, Wilkins's counsel rested.

¶ 19 The State Police called Tracie Newton, who testified that she had been the supervisor of the State Police's sex offender registration of the unit since January 2005, as its sole witness. She stated that her job duties included overseeing the daily operations of the Registration Act,

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being in charge of the website and registry, administering the regulations and administrative laws relating to the registry, and reviewing numerous files, one of which was Wilkins's. She also stated that he registered late in 2001, he did not register until 2004 following his 2001 registration, and he failed to register by February 16, 2002, as required by the pertinent statute. She further testified Wilkins registered late on two occasions, although she later stated she believed that he also registered late in 2007. Moreover, she testified that the department was unaware that Wilkins was in federal custody from 2004 to 2007 until documentation was provided "in court." The transcript does not indicate which court Newton was referring to. However, she testified that this was when his annual registration date was readjusted to reflect the last time he registered in 2004. She stated that the readjustment had not affected his annual registration as of the date of the hearing. She further indicated that as of the hearing date, the ending date of his registration period in Illinois was January 22, 2014, and not 2017 (the latter she clarified upon the hearing officer's inquiry). She testified that the statute did not require the State Police to send a certified letter to law enforcement when registrants last registered. While she testified that she was unaware of any purported appeal by Wilkins in the federal court system, she testified "we never tell anybody not to continue registering during any process."

¶ 20 In closing arguments, Wilkins's counsel stated that there were mistakes "a few times" with his ending registration date, as Wilkins was notified at one point that the ending year was 2021, then 2017, and then 2011 (which he claimed was the correct year). He also claimed that the dates were improper because Wilkins was incarcerated until November 2, 2007. After noting that Wilkins had not been convicted of any sex crime since 1991 and expressing Wilkins's

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regret for the 1991 crime, he requested that Wilkins be terminated from a duty to register as of the February 2011 date.

¶ 21 In its closing, the State Police contended section 7 of the Registration Act clearly stated the registration requirement for a 10-year period and the consequence for failure to comply with any of the statute's provisions, including registering timely, would result in a 10-year extension of the registration period. Counsel also argued that Wilkins's late registration on January 22, 2004, explained the ending date of January 22, 2014. Additionally, he referenced the registration forms that Wilkins signed provided him with actual knowledge about the Registration Act's registration requirements. Following an inaudible portion of the recording, the transcript indicates that the hearing was reopened for the limited purpose to introduce a February 7, 2002, letter from Richard J. Elias, U.S. Probation Officer, to Wilkins as rebuttal evidence. Wilkins's counsel argued that the Elias letter notifying Wilkins that his probation terminated on January 30, 2002, which was a week before he was to register, was the reason Wilkins "missed" the 2002 registration.

¶ 22 On February 20, 2011, Johnston issued his recommendation that the extension of Wilkins's registration period be upheld. He found that Wilkins erroneously interpreted Elias's letter. He also found that while there were mistakes with the dates, Wilkins could not reasonably believe that he was not required to register when he was supposed to. Further, he found that Wilkins registered two years late on January 22, 2004, and that consequently, his registration was extended to January 22, 2014. He further concluded that each of his extensions were proper and that section 7 of the Registration Act provided for a 10-year extension of registration for

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noncompliance with the Registration Act's provisions from the first date after a violation. On March 7, 2011, the State Police adopted the recommendation and entered a final administrative decision, signed by Keen, upholding the extension of Wilkins's registration as a sex offender to January 22, 2014. The order also indicated that Wilkins could appeal the administrative decision by filing for an administrative review in the circuit court of Cook County within 35 days of the decision date.

¶ 23 On March 17, 2011, Wilkins filed a *pro se* complaint in the circuit court of Cook County pursuant to the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2010)) appealing the March 7, 2011, decision. As its answer, the State Police filed documents contained in Wilkins's file, including but not limited to the documents admitted into evidence at the January 2011 administrative hearing and the transcript of the taped proceedings.

¶ 24 On August 12, 2011, the circuit court conducted a hearing, during which Wilkins appeared *pro se* and the remaining State Police defendants appeared by counsel. In addition to considering the parties' arguments during the hearing, the circuit court judge indicated that Wilkins's argument regarding the propriety of the initial extension of his registration in 2001 was barred under *res judicata*. At the conclusion of the hearing, the circuit court entered an order affirming the State Police's decision to extend Wilkins's registration period to January 22, 2014, for the reasons stated on the record. Wilkins filed a notice of appeal with this court on the same date the circuit court's order was entered.

¶ 25 DISCUSSION

¶ 26 In his appeal of the State Police's administrative decision, Wilkins argues the decision

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was "not in accordance with the law." In his opening brief, Wilkins presents the following issues for review: (1) whether the State Police defendants had the authority to extend and/or enforce the registration period for a sex offender beyond the 10-year period provided for in section 7 of the Registration Act; and (2) whether defendants violated his due process rights under the federal and state constitutions by not notifying the Park Forest police so that the local agency could then notify him about the extensions of his registration period as a sex offender. However, before we address the issues presented, we examine the proper standard of review.

¶ 27 On appeal from administrative review proceedings, we review the agency decision, not the circuit court's judgment. *Esquivel v. Retirement Board of Policemen's Annuity & Benefit Fund of Chicago*, 2011 IL App (1st) 111010, ¶ 18. Additionally, we do not reweigh the evidence, judge credibility, or resolve conflicts in the testimony in our role as the reviewing court. *Woods v. Department of Employment Security*, 2012 IL App (1st) 101639, ¶ 16. Our review "extends to all questions of fact and law presented by the entire record." *Rose v. Board of Trustees of Mt. Prospect Police Pension Fund*, 2011 IL App (1st) 102157, ¶ 66. The agency's findings of fact are deemed *prima facie* true and a reviewing court will not disturb the findings unless they are against the manifest weight of evidence. *City of Belvidere v. Illinois State Labor Relations Board*, 181 Ill. 2d 191, 204 (1998); *Woods*, 2012 IL App (1st) 101639, ¶ 16. A finding of fact is against the manifest weight of the evidence where the opposite conclusion is clearly evident. *Belvidere*, 181 Ill. 2d at 204; *Woods*, 2012 IL App (1st) 101639, ¶ 16. The agency's conclusions of law, however, are not given such deference and are reviewed *de novo*. *Board of Education of Rich Township High School Dist. No. 227 v. Illinois State Board of*

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Education, 2011 IL App (1st) 110182, ¶ 62. If review of the agency's decision involves mixed questions of law and fact, we review the agency's decision to determine if it is clearly erroneous.

AFM Messenger Service, Inc. v. Department of Employment Security, 198 Ill. 2d 380, 392

(2001). Mixed questions of law and fact examine the legal effect of a given set of facts, involve undisputed or established historical facts and undisputed rule of law, or consider whether the rule of law as applied to the specific facts has been violated. *Id.* at 391. In that instance, the administrative decision will be reversed only if the reviewing court is "left with the definite and firm conviction that a mistake has been committed" based on the entire record. *Id.* at 395 (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)). As the case before us asks us to determine if the State Police's extension of Wilkins's registration period to January 22, 2014, after he undisputedly failed to register for two years violated section 7 of the Registration Act was proper, we review the agency's decision applying the clearly erroneous standard.

¶ 28 Further, we point to the inadequacies in Wilkins's opening brief. In particular, his brief consistently fails to cite to the record and fails to cite to any authority for many of the contentions he raises. See Ill. S. Ct. Rs. 341(h)(6), 341(h)(7) (eff. July 1, 2008). For example, Wilkins baldly asserts that the State Police's conduct violates 42 U.S.C. §1983 (2008), but he proffers no coherent argument or citation to authority to support his contention. Wilkins's *pro se* status does not exempt him from adhering to our supreme court's rules governing appeals. *Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010). Notwithstanding these failures, we find that we are still able to address the issues presented and dispose of the appeal's merits in rendering a

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decision. *Id.*

¶ 29 State Police Authority to Extend Sex Offender Registration Period

¶ 30 First, Wilkins questions the State Police's authority to extend his registration period, although he frames the issue as to whether the agency can extend and/or enforce the registration period beyond the 10-year period provided for under section 7 of the Registration Act. The Registration Act and the Code clearly authorize the State Police to extend the registration period of a sex offender for only 10 years for noncompliance with any provision of the Registration Act, *i.e.*, failure to register timely. 730 ILCS 150/7 (West 2008); 20 Ill. Adm. Code §1280.40(a) (2002). Section 7 of the Registration Act in effect at the time Wilkins registered in 2004 provided in pertinent part:

"Liability for registration terminates at the expiration of 10 years from the date of conviction or adjudication if not confined to a penal institution***providing such person does not, during that period, again become liable to register under the provisions of the provisions of this Article. The Director of State Police, consistent with administrative rules, shall extend for 10 years the registration period of any sex offender, as defined in Section 2 of this [Registration] Act, who fails to comply with the provisions of this Article." 730 ILCS 150/7 (West 2002).

Similarly, the relevant provision of the Code stated in pertinent part:

"A sex offender shall register in person annually within one year after his or her last registration. Failure to comply with any provision of the [Registration] Act shall extend the period of registration by ten years beyond the period otherwise required.***"

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20 Ill. Adm. Code §1280.40(a) (2002).

Hence, the relevant statutes only empower the State Police to extend a sex offender's registration period for 10 years for failure to comply with any provision of the Registration Act. Indeed, the State Police acknowledged its authority to extend registration periods for 10-years in disclosing the "scrivener's error" in the December 12, 2003, administrative decision regarding the initial extension of his registration period in its April 3, 2009, letter to Wilkins.

¶ 31 However, Public Act 93-0979 (eff. Aug. 20, 2004) amended section 7 of the Registration Act in addressing the date that the extension of a registration period took effect:

"The registration period for any sex offender who fails to comply with any provision of the Act shall extend the period of registration by 10 years beginning from the first date of registration after the violation."

To the extent that Wilkins attempts to challenge the "scrivener's error" in the December 12, 2003, administrative decision that stated that his registration was extended to "January 31, 2021," we find his argument is precluded under *res judicata*.

¶ 32 *Res judicata* bars relitigation of a claim that has been previously adjudicated, including in an administrative proceeding. *Crossroads Ford Truck Sales, Inc. v. Sterling Truck Corp.*, 2011 IL 111611, ¶ 56. As the circuit court judge also noted, Wilkins had already challenged (unsuccessfully) the initial extension of his registration for failure to register timely in 2001 in a prior administrative proceeding that resulted in a final administrative decision on December 12, 2003. Wilkins admittedly failed to appeal the decision under the Administrative Review Law. As Wilkins has already had an administrative hearing addressing the propriety of his initial

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extension, we cannot and will not revisit the issue in the instant appeal.

¶ 33 Furthermore, Wilkins argues that prior federal and state lawsuits that he filed against the State Police resulted in correction of the mistakes regarding the extensions. The record refers to the state lawsuit (case number 07 L 13216), correspondence from the Illinois Attorney General responding to a document request, and a federal lawsuit generally. Yet, as the circuit court also pointed out during the hearing on August 12, 2011, the record does not contain documents pertaining to or the dispositions of these lawsuits. Therefore, we cannot and do not consider his unsupported argument that the lawsuits prompted corrections by the State Police in reaching our decision. Accordingly, we view the germane issue before us as whether the State Police's extension of his registration until January 22, 2014, after his failure to comply with the Registration Act was proper.

¶ 34 If the record contains any evidence supporting the administrative decision, the decision should be upheld. *Woods*, 2012 IL App (1st) 101639, ¶ 16. The record undisputedly shows that Wilkins failed to register in 2002 and 2003. When he registered on February 16, 2001, he signed a registration form and initialed various provisions, specifically informing him that he was required to register by February 16, 2002, and that his registration period would be administratively extended for 10 years for failure to comply with any provision under the Registration Act. Likewise, the registration form that he signed on January 22, 2004, albeit signed "against [his] will, per [his] attorney," contained nearly identical provisions (that he similarly initialed) informing him, among other things, about his annual registration requirement and the consequences of failure to comply with any provision of the Registration Act, *i.e.*, 10-

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year extension of his registration period.

¶ 35 In 2002 and 2003, Wilkins sent correspondence to the State Police insisting that his registration requirements were completed and requesting that his information be terminated. In March 2002, a little over a month from his annual registration date following his 2001 registration, Goodman (an attorney acting on his behalf) sent correspondence to the State Police requesting his removal from the registry as Wilkins insisted he had completed his registration requirements. Wilkins's belief that he had completed his requirements, notwithstanding the registration form that he signed in 2001, was unreasonable and does not negate the extension of his registration period. Wilkins had knowledge that he was required to register annually, including in 2002 and 2003, but he failed to do so. Thus, we find the record contains sufficient evidence that this extension of his registration period was proper and does not leave us with a definite and firm conviction that a mistake was made.

¶ 36 In reaching our conclusion, we acknowledge, as the administrative law judge did in his findings and conclusions, that mistakes regarding the registration ending dates occurred. Those mistakes, however, did not constitute improper extensions beyond the 10-year period mandated by statute (730 ILCS 150/7 (West 2008)), or otherwise nullify Wilkins's obligation to register as a sex offender under the Registration Act. In addition to the obvious error in the 2021 ending year, the State Police apparently retroactively applied a 2008 amendment to Wilkins after he was released from a second federal imprisonment for tax-related charges on November 2, 2007. Wilkins registered as a sex offender on the same date. This registration brought him in compliance with the Registration Act, but was done three years after his last registration in

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January 2004. Section 7 of the Registration Act, as amended by Public Act 95-0513 (eff. June 1, 2008), addressed extensions of a sex offender's registration period where the offender is incarcerated during the registration period:³

"Reconfinement due to a violation of parole or other circumstances that do not relate to the original conviction or adjudication shall toll the running of the balance of the 10-year period of registration, which shall not commence running until after final parole, discharge, or release."

As a result of his November 2007 registration, the first since his last registration on January 22, 2004, the State Police extended his registration for ten years. Following Wilkins's continued correspondence questioning his registration requirement, the April 3, 2009, letter reflected another scrivener's error, while clarifying the previous one, by informing Wilkins that his registration period was extended to "November 2, 1017" following his release from prison and registration on November 2, 2007. Even Wilkins acknowledged the obvious typographical error during the administrative hearing in January 2011. As previously stated, the State Police can only extend registration periods for 10 years.

¶ 37 Yet, as the defendants' response brief states, a statute is prospectively applied, unless the legislature expressly indicates that the provision is retroactive. See *People v. Aguilar*, 408 Ill.

³Public Act 93-0979 (effective August 20, 2004) previously amended section 7 of the Registration Act to provide that "reconfinement due to a violation of parole or other circumstances that relate[] to the original conviction***shall extend the period of registration to 10 years after final parole, discharge, or release."

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App. 3d 136, 140-42 (2011). Statutory construction is reviewed *de novo*. *People v. Williams*, 239 Ill. 2d 119, 127 (2010). In interpreting a statute, we ascertain the legislature's intent by viewing the statute's plain language. *Id.* We do not presume an absurd, inconvenient, or unjust result in construing the statute. *Id.* In *Commonwealth Edison Co. v. Will County Collector*, 196 Ill. 2d 27, 37-39 (2001), our supreme court adopted the approach set forth in *Landgraf v. USI Film Products*, 511 U.S. 244 (1994), in determining whether a statute is retroactive. "The threshold inquiry is whether the legislature has expressly prescribed the temporal reach of a statute." *Doe v. Diocese of Dallas*, 234 Ill. 2d 393, 405 (2009). Absent an express provision regarding a statute's temporal reach, we examine whether the statutory provision at issue is substantive or procedural. *Doe v. University of Chicago*, 404 Ill. App. 3d 1006, 1012 (2010). If the statute is substantive, *i.e.*, creating, establishing or defining rights, it may not be retroactively applied. *Id.* In contrast, if a statute is procedural in nature, it can be retroactively applied provided it does not impair a defendant's rights, increase the defendant's liability for past conduct, or impose new duties regarding transactions already completed. *Id.* Adhering to these statutory interpretation rules, we conclude that the 2008 amendment, which took effect June 1, 2008, was not retroactive. *Cf. Leshner v. Trent*, 407 Ill. App. 3d 1170, 1174-75 (2011) (Fifth District affirming retroactive application of 2008 amendment tolling registration period during incarceration as clarifying 10-year reporting requirement) (and discussion therein); but see *O'Casek v. Children's Home & Aid Society of Illinois*, 229 Ill. 2d 421, 440 (2008) (we are not required to follow sister appellate district decisions).

¶ 38 We find no express language in the amendment indicating that this provision was entitled

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to retroactive application to toll Wilkins's registration period during his imprisonment from 2004-07, which was prior to its effective date (June 1, 2008). Such an interpretation would undermine the Registration Act's purpose and frustrate the public safety concerns addressed by the legislation. See *People v. Adams*, 144 Ill. 2d 38, 386-88 (1991). However, as previously stated, we find the record contains sufficient evidence supporting a 10-year extension of his registration period to January 22, 2014, following Wilkins's registration on January 22, 2004, which occurred nearly three years after his last registration on February 16, 2001. Consequently, we conclude this inexplicable tolling does not render the extension a mistake warranting reversal.

¶ 39

Due Process

¶ 40 Next, Wilkins argues that the State Police violated his due process rights by not notifying the Park Forest police about the extension of his registration period so that the local enforcement agency could then notify him. When questioned about the nature of his argument at the hearing in the circuit court, Wilkins relented in stating that his argument focused only on the State Police's lack of notice to the Park Forest police department. He then contradicted himself by extending his argument that the lack of notice to the Park Forest police prevented the agency from then notifying him. Notwithstanding the confusing and circular nature of his argument, we view the gist of his argument as due process required actual notice to him that his registration period was being extended. However, our supreme court has squarely rejected this argument and held that the Registration Act does not require actual notice to a sex offender about extensions of registration periods as the Registration Act provides sufficient notice to sex offenders about its requirements, thereby satisfying due process. *People v. Molnar*, 222 Ill. 2d 495, 514-15 (2006).

¶ 41 In *Molnar*, the defendant challenged the constitutionality of section 7 of the Registration Act and section 1280.40 of the Code, which provide for the State Police to extend a sex offender's registration period by 10 years for noncompliance with any provision in the Registration Act. *Id.* at 498-99. The State appealed directly to the supreme court after the circuit court declared the provisions unconstitutional. *Id.* at 499. The defendant, who was subject to the Registration Act resulting from a conviction for criminal sexual assault, was arrested by Crestwood police, and charged with failing to register a change of address within 10 days of moving and with providing a false address when he reregistered. *Id.* at 501-02.

¶ 42 At a hearing on defendant's motion to find a lack of probable cause and to dismiss the charges, the defendant stipulated that he received a letter from the State Police outlining amendments to the Registration Act, including a provision regarding consequences of failure to comply with any provision of the Registration Act, *i.e.*, 10-year extension of reporting period. *Id.* at 502-03. The parties also stipulated that he was not personally informed of an administrative extension when he registered in 2002 after failing to do so for two years. *Id.* at 503-04.

¶ 43 The defendant argued that section 7 of the Registration Act and the Code were unconstitutional because the sections did not require the State Police to notify a registrant of an alleged violation under the Act, including notice about extension of the registrant's reporting period. *Id.* at 505. The supreme court distinguished the facts at bar from those facts considered by the United States Supreme Court in *Lambert v. California*, 355 U.S. 225 (1957), that struck down a municipal ordinance imposing a registration requirement as unconstitutional. *Id.* at 513. The *Molnar* court found "ample evidence" in the record before it showing that defendant had

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actual knowledge of registration requirements, including his duty to register for a 10-year period following his conviction, and defendant had signed and initialed forms notifying him of his duties under the Registration Act (including annual registration) and the consequences of violating any provision of the Registration Act (a 10-year extension of the reporting period and violation deemed a Class 4 felony). *Id.*

¶ 44 Wilkins maintains that the Registration Act required the State Police to notify the Park Forest police about his extension. In 2006, section 7 of the Registration Act was further amended, in pertinent part, to provide:

"If the registration period is extended, the Department of State Police shall send a registered letter to the law enforcement agency where the sex offender resides within 3 days after the extension of the registration period. The sex offender shall report to that law enforcement agency and sign for that letter. One copy of that letter shall be kept on file with the law enforcement agency of the jurisdiction where the sex offender resides and one copy shall be returned to the Department of State Police." Pub. Act 94-0166 (eff. Jan. 1, 2006).

As the State Police defendants point out, however, this provision was not in effect when Wilkins failed to register in 2002 and 2003, thereby triggering the extension of his registration period for 10 years the next time that he registered after the violation on January 22, 2004. Additionally, Wilkins neither raised this claim nor provided factual support for his assertion at the administrative hearing in January 2011. Thus, he has forfeited the claim. See *Cinkus v. Village of Stickney Municipal Officers Electoral Bd.*, 228 Ill. 2d 200, 212 (2008). Coincidentally, the

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Molnar court noted that the amendment "does not provide that the local law enforcement agency must then ensure that the extension letter is delivered to the offender." *Id.* at 517. While we view Wilkins's argument as directed to his right of actual notice about his extension, *Molnar* suggests that neither his registration requirement nor the extension of his registration period was void if the State Police failed to send a requisite letter to the Park Forest police.

¶ 45 Lastly, Wilkins cites *Segers v. Industrial Comm'n*, 191 Ill. 2d 421, 434 (2000), to support his contention that the State Police's decision violated procedural due process. "Procedural due process claims concern the constitutionality of the specific procedures employed to deny a person's life, liberty or property." (Internal citation omitted). *Id.* Wilkins's confusing and incomplete argument does not alter our conclusion that the State Police's extension of his registration period as a sex offender for noncompliance with the Registration Act comports with due process.

¶ 46 CONCLUSION

¶ 47 In sum, we uphold the State Police's administrative decision to extend Wilkins's registration period as a sex offender to January 22, 2014, pursuant to section 7 of the Registration Act for noncompliance with its provisions. Wilkins's purported challenge of the initial extension in 2001 that was rejected in a December 2003 final administrative decision is barred under *res judicata*. Finally, we conclude that Wilkins's due process rights were not violated as the Registration Act does not require actual notice to sex offenders, such as Wilkins, about extensions of his or her reporting period. See *Molnar*, 222 Ill. 2d at 514-15. For all of the aforementioned reasons, we affirm the final administrative decision issued by the Department of State Police on March 7, 2011.

¶ 48 Affirmed.