
LEGAL UPDATE

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IOWA SUPREME COURT DECISION — ADMINISTRATIVE DRIVER'S LICENSE REVOCATIONS BASED ON VIOLATIONS RESOLVED WITH DEFERRED JUDGMENTS

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Johnston v. Iowa Department of Transportation

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No. 19-0048

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Facts and Procedural Background. David Michael Johnston (Johnston) received notice from the Department of Transportation (DOT) that he was a habitual offender, and as a result, his driver's license was revoked. Four days prior to receiving the notice, Johnston was convicted of Operating While Intoxicated (OWI) and he received a deferred judgment for eluding a law enforcement vehicle as part of a filed plea agreement. Johnston was previously convicted of OWI less than six years earlier.

Johnston challenged the DOT decision to classify him as a habitual offender in administrative hearings (including two separate agency appeals), in district court, and on appeal to the court of appeals. Johnston argued that the eluding charge should not be considered or used against him because he received a deferred judgment. Johnston also argued that a deferred judgment is not a final conviction as required under Iowa law to be considered a habitual offender, an argument that was rejected by the DOT, the district court, and the court of appeals. Under Iowa Code section 321.555, a person who receives three or more final convictions, either singularly or in combination within a six-year period for eight listed offenses, including but not limited to operating while intoxicated and eluding, is a habitual offender.

Johnston was convicted of the OWI charge but he was placed on probation as a condition of his deferred judgment for the eluding charge. On appeal to the Iowa Supreme Court (Court), Johnston argued that because he had successfully completed his probation as a condition of his deferred judgment and he had discharged his probation, pursuant to Iowa Code section 907.3, there is no final eluding conviction that should count against him in calculating his habitual offender status.'

Issue. Whether the DOT can consider a deferred judgment granted to an offender as a final conviction when determining if a person is a habitual offender under Iowa Code section 321.555.

Holding. In a 5-2 decision, the Court held that where a conviction is used primarily to protect the public rather than as a criminal punishment, the term has a broader meaning and includes a deferred judgment. A deferred judgment granted for an eluding charge is a final conviction under Iowa Code section 321.555 and may be considered by the DOT when determining whether a person is a habitual offender.

Analysis. The Court reviewed prior opinions, legislative history, and case law from other jurisdictions to determine whether a deferred judgment granted by a judge on an otherwise qualifying violation is considered a “final conviction” for determining habitual offender status under Iowa Code chapter 321. The Court applied the framework adopted in *Schilling v. Iowa Dep’t of Transp.*, 646 N.W.2d 69, 73 (Iowa 2002) to reaffirm that a four-level analysis is necessary to determine whether a deferred judgment is considered a conviction. In *Schilling*, a defendant’s conviction is considered a final conviction under the broad sense of the term if four elements are met:

- (1) A judge or jury has found the defendant guilty, or the defendant has entered a plea of guilty;
- (2) the court has ordered some form of punishment, penalty, or restraint on the person’s liberty to be imposed;
- (3) a judgment of guilty may be entered if the person violates the terms of probation or fails to comply with the requirements of the court’s order; and
- (4) the conviction has become final.

Under the last element, “[a] conviction is final if the defendant has exhausted or waived any post-order challenge.”

The Court rejected Johnston’s claim that the holding in *State v. Tong*, 805 N.W.2d 756 (Iowa 2011), limited the framework previously established in *Schilling* when analyzing deferred judgments. The Court reasoned that “where a conviction is used primarily to protect the public rather than as a criminal punishment, we give the term a broader meaning.” Considering the fact that Johnston would suffer increased administrative sanctions against his driver’s license, and not harsher criminal punishment, the Court found the deferred judgment granted for the eluding charge is a final conviction. In addition, when the deferred judgment was granted, and later successfully completed, Johnston had waived any post-order challenge that may have existed.

In its opinion, the Court stated that “context matters” and that “[w]e have long recognized that ‘our interpretation of the term ‘conviction’ depend[s] upon the statutory context.’” (quoting *Daughenbaugh v. State*, 805 N.W.2d 591, 598 (Iowa 2011)). The Court noted that “[w]e have on occasion adopted the compromise view that a deferred judgment remains a conviction until the defendant successfully completes his or her term of probation.” *Tong*, 805 N.W.2d at 600-601 (citing *State v. Birth*, 604 N.W.2d 664, 665 (Iowa 2000)).

Dissent. The dissent noted the majority relied on a prior erroneous Court decision, and specifically wrote, “[o]ur holding in *Schilling* — upon which the holding in this case relies completely — was in error.” The dissenting Justices would have differentiated a deferred judgment from a conviction based on the text of Iowa Code section 321.555.

The dissent compared Iowa Code chapter 321J, which separately references both deferred judgments and convictions, and Iowa Code chapter 321 which uses “conviction” or “final conviction” separately in its sections. According to the dissent, the legislature could not have

intended for deferred judgments to be a final conviction under Iowa Code chapter 321. The dissent stated, "... we see that in our motor vehicle laws the legislature treats deferred judgments separate and distinct from convictions" with respect to Iowa's OWI statute in Iowa Code chapter 321J and "in the deferred judgment statute itself." The dissenting Justices "would reverse the district court's order on judicial review and vacate the revocation of Johnston's driving privileges."

Iowa Code. The issue in this case centered on the Court's interpretation of what the legislature meant when it used the term "conviction" or "final conviction" in reference to Iowa's motor vehicle statutes. Iowa Code section 321.1(15) specifically defines a "conviction," when used in Iowa Code chapter 321, as "a final conviction, including but not limited to a plea of guilty or nolo contendere accepted by the court; a final administrative ruling or determination; or an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court." (emphasis added.) Iowa Code chapter 321J does not define "conviction."

Iowa Code defines "conviction" and "convicted" in 11 different Iowa Code chapters, sections, or subsections, as applicable. Sometimes, the term specifically includes violations resolved with a deferred judgment. As such, it is possible that a deferred judgment granted may be considered a conviction in certain circumstances and not a conviction in others. The definition section of a chapter may provide guidance when determining whether a deferred judgment counts as a conviction for purposes of the particular chapter.

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