

3503.

REGISTRAR OF MOTOR VEHICLES—UNSATISFIED JUDGMENT—JUDGMENT DEBTOR—JUDGMENT CREDITOR—COSTS—VALID ORDER OF REVOCATION—VACATED, MODIFIED OR REVERSED AS PROVIDED BY SECTIONS 6298-14, 6298-17, 6298-18, 6298-19 C. C.

SYLLABUS:

A valid order of revocation made by the Registrar of Motor Vehicles may only be vacated, modified or reversed in the manner provided for in Section 6298-14, 6298-17, 6298-18 and 6298-19 of the General Code.

COLUMBUS, OHIO, January 5, 1939.

HON. FRANK WEST, *Registrar Bureau of Motor Vehicles, Fourth and Main Streets, Columbus, Ohio.*

DEAR SIR: I am in receipt of your communication which reads as follows:

“Relative to the Financial Responsibility Law, Section 6298-4 seems to make no distinction between the criminal offenses enumerated in 6298-1 and the unsatisfied judgment in the same section. There is a provision which tends to give the Registrar discretionary power in the case of unsatisfied judgments, where an agreement has been entered into between the judgment debtor and judgment creditor to satisfy the judgment in installments. There seems to be no specific provision in the law authorizing the Registrar to rescind an order of revocation in the case of an unsatisfied judgment, if during the period of time for which the order of revocation is issued the judgment debtor goes into the court and pays the judgment in full together with costs.

We now ask your opinion as to whether the Registrar, over a broad interpretation of the intent of the law has authority to rescind an order of revocation where same has been issued because of an unsatisfied judgment at any time during the year, if the judgment debtor satisfies the judgment in full together with costs.”

The Financial Responsibility Law comprises Sections 6298-1 to 6298-25, both inclusive of the General Code.

Section 6298-1 of the General Code provides that the Registrar of Motor Vehicles of the State of Ohio is authorized and empowered to

and shall, in accordance with the provisions of the Financial Responsibility Law, revoke and terminate the right and privilege of operating a motor vehicle upon the public roads and highways of this state, each license, certificate or permit to operate a motor vehicle, as chauffeur or otherwise, and each certificate of registration for a motor vehicle of or belonging to any person who has failed, within thirty days after the entry of the same, to satisfy or stay the execution of any final judgment hereafter rendered against him in any court of record within this state, in an action for wrongful death, personal injury or damage to property, caused by such person's individual operation of a motor vehicle.

Section 6298-4 provides in part as follows:

“* * * Unless, prior to the expiration of thirty (30) days from the date of such notice, such person shows to the satisfaction of the registrar that there is no authority herein to make such an order, or unless, within said period of time, such persons shall have satisfied the registrar of his ability to respond in damages, as hereinafter set forth, the registrar shall issue an order revoking and terminating such person's right and privilege of operating a motor vehicle upon the public roads and highways of this state, his license, certificate, or permit to operate a motor vehicle, and all certificates of registration issued for his motor vehicles. Such order shall, unless vacated, modified, or reversed, as provided in this act, remain in full force and effect for a period of one year from the date thereof, and while such order is in force, no license, certificate, or permit to operate a motor vehicle, either as chauffeur or otherwise, nor any certificate of registration for a motor vehicle, shall be issued to such person.”

It is quite clear that under the provisions of the above quoted section, the Registrar shall issue an order revoking and terminating, for a period of one year, the right and privilege of any person to operate a motor vehicle on the public roads and highways of this state who has failed, within the time prescribed by Section 6298-1, supra, to satisfy or stay the execution of any final judgment rendered against him in any court of record within this state in an action for wrongful death, personal injury or damage to property caused by such person's individual operation of a motor vehicle, unless such person, prior to the expiration of thirty days from the date of notice, shows to the satisfaction of the Registrar that there is no authority to make such an order or unless within such period of time, such person shall have satisfied the Registrar of his ability to respond in damages as provided by Sections 6298-5 and 6298-6 of the General Code.

With reference to the particular question which you have presented, it is noted from a consideration of Section 6298-4, General Code, that once an order of revocation has been made thereunder by the Registrar for a person's failure to comply with the provisions thereof, such an order remains in full force and effect for a period of one year unless vacated, modified or reversed as provided for under the provisions of the Financial Responsibility Law. Section 6298-2 of the General Code provides in part as follows:

"A judgment debtor to whom this act applies may, by written motion, notice of which shall be given to the judgment creditor in the same manner as other motions, apply to the trial court in which the judgment was obtained for the privilege of paying such judgment in installments, and the court may, without affecting any rights to execute upon such judgment, grant such motion and fix the amounts and times of payments of the installments. As long as said order is complied with, the registrar of motor vehicles may, without proof of the ability of such judgment debtor to respond in damages, permit the judgment debtor's right and privilege of operating a motor vehicle, his licenses, certificate, and permit to operate a motor vehicle, and the certificate or certificates of registration for his motor vehicle or motor vehicles, to remain in force and unrevoked."

In view of the provisions contained in Section 6298-1 and Section 6298-4, supra, it seems quite clear that the provisions of Section 6298-2, above quoted, have application only in those instances where the judgment debtor, prior to the expiration of thirty days and prior to the time a final order of revocation has been made by the Registrar, applies to the trial court in which such judgment was rendered against him for the privilege of paying such judgment in installments; and if such court grants the application so filed and fixes the amounts and times of payments of installments on such judgment, the Registrar then may, as long as said order is complied with, permit the judgment debtor's right and privilege of operating a motor vehicle to remain in force and unrevoked.

However, as heretofore stated, once a final order of the Registrar has been duly made revoking and terminating a person's right and privilege of operating a motor vehicle, such order may only be vacated, modified or reversed as provided for under the provisions of the Financial Responsibility Law. This, therefore, leads us to a consideration of the sections of the act wherein is set forth the manner under which this may be accomplished. Section 6298-14 of the General Code briefly provides that within ten days after an order other than a final order has

been issued by the Registrar, any person affected by such order may apply to the Registrar for a rehearing with reference to any matter determined in the original proceeding had with respect to such order. If an order is made by the Registrar denying such application, the same becomes a final order. Section 6298-17 of the General Code, provides as follows :

“A final order made by the registrar may be reversed, vacated, or modified by the court of common pleas of Franklin County, or of the county in which the party affected by the order resides, if upon consideration of the record before it, such court is of the opinion that the final order of the registrar of motor vehicles was unlawful.”

Section 6298-18 of the General Code provides that the proceeding to obtain a reversal, vacation or modification of a final order of the Registrar shall be by petition in error filed on or before the expiration of thirty days from the date of entry of the final order of the Registrar. Section 6298-19 of the General Code provides for the filing, by the Registrar, of a transcript of the proceedings had before the Registrar, together with a copy of all applications, orders and other matters pertaining to such proceedings.

The foregoing quoted and referred to sections of the Financial Responsibility Law are the only provisions relating to the manner in which a final order made by the Registrar may be vacated, modified or reversed. The provisions therein contained relating to the powers of the Registrar of Motor Vehicles with reference to the revocation of a patron's right and privilege of operating a motor vehicle are not only silent as to his authority to vacate or modify a final order once made by him, but specifically state that no order of the Registrar shall be vacated, modified or reversed except in the manner provided for in the act.

A question analogous to the one you present was considered by the Attorney General in Opinion No. 5021 rendered December 19, 1935 and found in the Opinions of the Attorney General for that year, Vol. 111, page 1673. The exact question which was considered by the then Attorney General in the above referred to opinion was whether or not the Registrar of Motor Vehicles can suspend or revoke an order made by him if a person, prior to the expiration of one year, should file proof of his ability to respond in damages. Considering this question, the then Attorney General held as is disclosed by the syllabus :

“The Registrar of Motor Vehicles does not have authority, after issuing a valid order of revocation, to suspend or revoke

such order, except in accordance with the provisions of Section 6298-14, General Code."

I believe that the conclusion reached in the foregoing opinion, in which I concur, is dispositive of the question which you have presented.

It is, therefore, my opinion, in specific answer to your question, that a valid order of revocation made by the Registrar of Motor Vehicles may only be vacated, modified or reversed in the manner provided for in Sections 6298-14, 6298-17, 6298-18 and 6298-19 of the General Code.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3504.

APPROVAL—RESERVOIR LAND LEASES, STATE OF OHIO,
THROUGH CONSERVATION COMMISSIONER, SEVERAL
LESSEES, LOCATIONS, DESIGNATED, BUCKEYE LAKE,
OHIO.

COLUMBUS, OHIO, January 5, 1939.

HON. L. WOODSELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval, a number of reservoir land leases executed by the State of Ohio, through you as Conservation Commissioner to the several lessees therein named, by which there were leased and demised to the respective lessees therein named a number of parcels of reservoir lands owned by the State at Buckeye Lake, Ohio.

These leases, designated as to the names of the several lessees, the locations of the parcels of land leased, and the annual rental provided for therein, are as follows:

Loe Tinsdale—Permission to occupy and use for cottage site and general business purposes, that portion of the northerly embankment of Buckeye Lake in the Southwest Quarter of Section 13, Town 17, Range 18, Licking County, Ohio, that is included in the outer slope and borrow pits adjacent thereto in the west-half of the east-half of Lot No. 55 of embankment lots east of Sayre's boathouse at Buckeye Lake, as laid out by the Ohio Canal Commission in 1905, and being the west-half of what is now designated as Lot No. 55 "A" on the official plats on file in the Division of Conservation at Columbus, Ohio, and being the west-half of