

Bond Case Briefs

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MUNICIPAL ORDINANCE - ILLINOIS

McGrath v. City of Kankakee

Appellate Court of Illinois, Third District - May 16, 2016 - N.E.3d - 2016 IL App (3d) 140523 - 2016 WL 2853444

Owner of vehicle that had been impounded brought purported class action against city alleging that its impoundment ordinance violated due process and was an unlawful attempt to use police powers to produce revenue.

The Circuit Court granted city's motion to dismiss. Owner appealed.

The Appellate Court held that:

- Owner lacked standing to assert due process challenge to ordinance, and
- Ordinance was not unconstitutional attempt to raise revenue through use of police powers.

Named plaintiff of class action did not allege that signs were not posted when her car was impounded, and therefore plaintiff lacked standing to challenge city's impoundment ordinance as violative of due process based on lack of adequate notice. Although plaintiff alleged that city did not post signs notifying drivers of ordinance until five years after it was passed, plaintiff did not allege that she was not provided with notice prior to city impounding her vehicle.

City's impoundment ordinance, which contained a \$500 charge, did not constitute an attempt to raise revenue through police powers in violation of state constitution. City's use of the word "penalty" in the ordinance established that the charge was a fine, not a fee, and fine was reasonably related to legitimate interest of deterring crime.