Divided Against Itself: Conflicts within the Illinois Appellate Court

How many districts does the Appellate Court of Illinois have? Trick question; different sources suggest different answers, and the answer may depend on why the question is being asked. The potential confusion reflects an ambiguity about the appellate court’s organizational structure, and suggests a conflict between the Illinois Constitution and the Supreme Court Rules in describing that structure. Practicing attorneys are likely to find these nuances somewhat less gripping than legal scholars and political scientists. But practicing law in the state of Illinois sometimes raises other questions with more obvious relevance. What is the effect, for instance, of a First District decision on a circuit court that sits within the Second? What if the Third District has issued a decision that conflicts with the First’s? Does it matter if the Second District has issued a decision of its own?

Any attorney conducting legal research in Illinois needs to know the answers to questions like these, especially when putting that research to use in arguments before the circuit courts. Answering such questions requires an understanding of the relationship among the five districts and the various justices who sit in each of them.

The Illinois Constitution

Under the Illinois Constitution of 1970, Illinois has a single, unitary appellate court; the state itself, not the court, is divided into five districts. Article VI, section 1, provides for the familiar three-tiered structure of the state judicial system: “The judicial power is vested in a Supreme Court, an Appellate Court and Circuit Courts.” Ill. Const. Art. VI, § 1. The purpose of the five-way political subdivision is unrelated to the appellate court’s jurisdiction or authority, and is intended for the purpose of selecting judges to sit on the reviewing courts: “The State is divided into five Judicial Districts for the selection of Supreme and Appellate Court Judges.” Ill. Const. Art. VI, § 2.

It is not by accident that the Constitution identifies the appellate court in the singular. The 1870 Constitution originally provided for multiple “inferior appellate courts,” one for each district. Ill. Const. 1870, Art. VI, § 11. Decisions of each appellate court were binding only on the trial courts within the district where that court sat. See People v. Layhew, 139 Ill. 2d 476, 489-90 (1990) (citing Taylor Mattis & Kenneth G. Yalowitz, Stare Decisis Among [sic] the Appellate Court of Illinois, 28 DePaul L. Rev. 571 (1979)). The 1870 Constitution was amended in 1964 to create a single appellate court, and to divide the state into five judicial districts for the purpose of selecting judges for the reviewing courts. Ill. Const. 1870,
Art. VI, §§ 1, 2 (amended 1964). That structure was adopted without change when the 1970 Constitution was enacted, and remains in effect today. Ill. Const. Art. VI, §§ 1, 2.

**Why Does the State’s One Appellate Court Look Like Five?**

In practice, the idea of the appellate court as a single unified entity seems more often honored in the breach. Though it has been 50 years since the former Constitution was amended to create a single appellate court, it must be said that the appellate court does not look like a unitary body. The justices have little official interaction with those from other districts; a significant exception is the Workers’ Compensation Commission division, which is composed of five justices, one from each district. The understanding of the court as a single body is also in apparent conflict with its seeming resemblance to the federal system, in which each circuit’s Court of Appeals is an autonomous body with no jurisdiction over the trial-level courts in other circuits. See *Aleckson v. Village of Round Lake Park*, 176 Ill. 2d 82, 95 (1997) (Harrison, J., specially concurring).

Indeed, the language commonly used to identify the appellate court mirrors what is used to identify the federal appeals courts. In much the same way that “Seventh Circuit” is a commonplace reference to the U.S. Court of Appeals for the circuit that includes Illinois, Indiana, and Wisconsin, “First District” is equally ubiquitous as collective shorthand for the appellate court justices who are selected from and sit in that part of the state. Supreme Court Rule 22, which provides for the organization of the appellate court, employs the same shorthand, using the numerical designations of the districts to identify the judicial divisions that are to sit in each of the appellate court’s five physical locations: “The First District shall sit in the city of Chicago,” and so on. Ill. S. CT. R. 22(a)(1). Likewise, in referring to “[e]ach district of the Appellate Court,” the rule’s language clashes with the Constitutional provision that it is the state—not the appellate court—that is divided into districts. *Id.* (emphasis added). “The Constitution does not provide for an appellate court of the judicial district.” *Yellow Cab Co. v. Jones*, 108 Ill. 2d 330, 335 (1985).

It is hardly fair to blame the supreme court for this misunderstanding. Clearly, it is useful to have this sort of shorthand available. But the ubiquity of such shorthand, especially given its usefulness in discussing the respective divisions of the appellate court, makes it all the more important to be mindful of the Constitutional ideal that those divisions are part of a unified whole.

**While Some Cases Treat the Districts Strictly as Equals …**

Consistent with this understanding, the supreme court generally resists the notion that the decisions of a circuit court’s “home district” should carry any special weight or be more binding on a circuit court than those from other districts. In one such case, it addressed whether a circuit court in one district might be bound by an appellate court decision from another district, and held that it could—even though the appellate court sitting in that district had decided the controlling issue differently. *People v. Granados*, 172 Ill. 2d 358, 371 (1996). *Granados* concerned a criminal defendant’s challenge to his sentence, which had been extended pursuant to statutes that enhanced his offenses from misdemeanors to felonies due to his prior convictions. *Granados*, 175 Ill. 2d at 363–64 (citing 625 ILCS 5/11-501(d)(1) (1992), 625 ILCS 5/6-303(d) (1992), and 730 ILCS 5/5-5-3.2(b)(1) (1992)). At the time of his offenses, which took place within the Third District, the appellate court sitting in that district had held that the extended-term sentencing provision did not apply to such circumstances. *Id.* at 366 (citing *People v. Spearman*, 108 Ill. App. 3d 237 (3d Dist. 1982)). In two other districts, however, the appellate court had rejected that view and held that the provision was applicable. *Id.* at 369 (citing *People v. Crosby*, 204 Ill. App. 3d 548 (1st Dist. 1990), and *People v. Roby*, 172 Ill. App. 3d 1060 (4th Dist. 1988)). The supreme court had since resolved that conflict, holding that the sentencing provision applied to such circumstances. *Id.* at 364–65 (citing *People v. Hicks*, 164 Ill. 2d 218 (1995)). But *Granados* concerned whether
it was constitutional to apply the extended-sentencing provision to the defendant, who claimed that at the time of his offenses, it was reasonable to believe that he would be sentenced according to the Third District’s view that the provision did not apply. *Id.* at 366–67.

The supreme court rejected his argument, holding that it was not reasonable for him to rely on the Third District’s view. *Id.* at 371. It did not matter that the case law was settled and consistent within the Third District; “[t]here is only one Illinois Appellate Court,” the supreme court observed, “and that court’s pronouncements on the present issue were unsettlement at the time of the defendant’s crimes.” *Id.* (citing *Layhew*, 139 Ill. 2d at 489). There was no greater significance to the decisions that came from the Third District, even though that was where the defendant’s offenses occurred and in which sat the circuit court where he was tried. Implicitly recognizing that the decisions from other districts were equally binding even though they were in conflict, the supreme court held that the other districts’ holdings gave the defendant “fair warning” that the sentencing provision could apply to him, and that there was “no constitutional prohibition” against such an application. *Id.* at 370.

Echoing the idea that decisions from a particular district have no heightened significance to the circuit courts in that district, the supreme court criticized the Fifth District for attempting to assume such a role. *Layhew*, 139 Ill. 2d at 489–90. *Layhew* concerned a criminal defendant’s argument that the trial court had erred in not formally instructing the jury as to the burden of proof and the presumption of innocence, though the defendant had not requested such instructions. *Id.* at 485. In its decision reversing the defendant’s conviction, the appellate court had issued a wide-ranging “directive” to the circuit courts in the Fifth District, requiring them to give juries those instructions “in all criminal cases, formally, in writing, and at the close of the case, whether tendered or requested.” *Id.* at 489; *People v. Layhew*, 191 Ill. App. 3d 592, 595 (5th Dist. 1989).

In reinstating the defendant’s conviction, the supreme court sharply criticized the appellate court for that directive and rejected the notion that the appellate court for the Fifth District had any special authority over the trial courts in that district: “We must remind that court that there is but one appellate court within the State of Illinois, and that a panel of the appellate court does not have constitutional authority to issue ‘directives’ to lower courts within its district.” *Layhew*, 139 Ill. 2d at 489.

**... Others Treat the Home District as First Among Equals**

Despite promoting the understanding that the appellate court is a single unitary court, rather than five autonomous courts, the supreme court has nonetheless acknowledged that in the face of a direct conflict between the decisions from different districts, the circuit court’s home district is first among equals. Recognizing that disparate decisions sometimes emanate from the different judicial districts, the supreme court has set forth rules for the circuit courts in managing legal conflicts. “[W]hen conflicts arise amongst the districts, the circuit court is bound by the decisions of the appellate court of the district in which it sits.” *Aleckson*, 176 Ill. 2d at 91 (citing *State Farm Fire & Cas. Co. v. Yapejian*, 152 Ill. 2d 533, 539–40 (1992)). When the districts are in conflict and there is no controlling authority from the district in which it sits, a circuit court is “free to choose between the decisions of the other appellate districts”—but it is still required to follow one of them. *Yapejian*, 152 Ill. 2d at 540.

In *Yapejian*, the supreme court criticized the circuit court for failing to follow the precedent set forth by several decisions of the appellate court. Despite appellate court decisions holding that section 143a(1) of the Illinois Insurance Code did not require arbitration of disputes relating to uninsured motorist coverage, both the circuit court and the appellate court had declined to follow these authorities—presumably because none of them came from the Second District, which had not addressed the issue. The circuit court concluded that the statute unambiguously required arbitration, and the appellate court affirmed. *Id.* at 539.
The supreme court reversed. While it acknowledged that the appellate court was not bound by appellate court decisions from any district, it criticized the circuit court for failing to follow such decisions. Id. at 539–40. Noting that the law had not been in conflict, the supreme court drew a distinction to a hypothetical instance “in which the circuit court was faced with conflicting decisions from the various appellate districts” but no controlling authority from its “home district”—a circumstance in which the circuit court “would have been free to choose between the decisions of the other appellate districts.” Id. at 540. But that was not the circumstance in the case before it, where the authority from other districts was consistent. Even though the circuit court’s home district had not addressed the subject, the circuit court was nonetheless bound by the decisions from the other districts and was not permitted to disregard binding authority. Id.

The supreme court reiterated this principle in Aleckson, holding that a circuit court is bound by the decisions of its home district when the decisions of various districts are in conflict. Aleckson, 176 Ill. 2d at 92. At issue in Aleckson was whether it was proper for the appellate court to apply a prior decision prospectively and not retroactively, an inquiry that required the court to consider whether the decision “established a new principle of law … by overruling clear past precedent on which litigants have relied[.]” Id. (citing Chevron Oil Co. v. Huson, 404 U.S. 97, 106 (1971)). The Aleckson court found it “beyond dispute” that the plaintiffs had relied upon clear past precedent, since the decision in question had been controlling authority in the Second District, where the case was brought, for more than 20 years. Id. The defendants had argued that the plaintiffs were unjustified in relying on that decision, because it reflected a minority view that had been expressly rejected by three other districts of the appellate court. Id. But the supreme court rejected that argument, recognizing that even though it was a minority view, it was the view held by the appellate court sitting in the district where the case was filed. “[F]aced with conflicting appellate authority,” the court held, it was not unreasonable for the plaintiffs “to rely upon the authority from their home appellate district.” Id.

In a special concurrence, Justice Harrison took issue with the notion that authority from the plaintiffs’ “home judicial district” was any more important than authority from elsewhere in the state, or that circuit courts had any reason to follow decisions from their own districts instead of those from others. “[W]hat circuit courts should be doing,” he wrote, “is following the most recent appellate court decision on point.” Id. at 95 (Harrison, J., specially concurring). While his approach differed from the majority’s, it too was based on the principle that the authority of the state’s single appellate court is unrelated to the five judicial districts into which the state is divided: “Because there is only one appellate court, a decision by any division of that court is binding precedent on all circuit courts throughout the state, regardless of locale.” Id. at 94-95 (citing People v. Harris, 123 Ill. 2d 113, 128 (1988)). Given these principles, Justice Harrison saw no reason to allow the circuit court’s location to dictate which decision the court should follow. While such a rule makes sense in the federal system, with its several autonomous courts of appeal, he felt it unsuited to “the unitary nature of the Illinois appellate court and the reach of its decisions[,]” Id. at 95. Indeed, he wrote that circuit courts should follow the most recent decision “even if the decision conflicts with a prior decision of an appellate court division located within the circuit court’s particular district. The geography is simply irrelevant.” Id.

The appellate court itself has struggled with the question of whether decisions from a circuit court’s “home appellate district” carry any greater weight. Schmidt v. Ameritech Illinois, 329 Ill. App. 3d 1020, 1029 (1st Dist. 2002). At issue in Schmidt was whether the circuit court had been correct to recognize a cause of action for intrusion upon seclusion. While decisions from the Second, Third, and Fifth Districts recognized the tort, there was one from the Fourth District that did not. Schmidt, 329 Ill. App. 3d at 1028. Since the supreme court had not yet resolved this conflict among the districts, the defendant maintained that the circuit court should have followed the decisions of the First District—it’s home district—which, the defendant claimed, had not recognized the tort either. Id. at 1027.

Acknowledging that some supreme court decisions—such as Aleckson—required the circuit court to follow decisions from its home district, while others—such as Granados—gave equal weight to decisions from
all five districts, the appellate court found it “uncertain” which principle should apply. Id. at 1029. It ultimately found it unnecessary to decide, concluding that the decisions from the First District had already recognized the cause of action, “albeit obliquely,” at the time of the defendant’s conduct. Id. at 1030. (It went on to reverse the judgment against the defendant, however, holding that the plaintiffs had failed to establish the elements of the tort. Id. at 1041.)

Conclusion

Schmidt identified an uncertainty that is likely to arise again. While it should be clear that circuit courts are bound by appellate court decisions from anywhere in the state, that principle alone does not help when the decisions from different districts are in conflict, making it impossible to follow one without violating another. In such a case, the circuit court must follow the decision of the appellate court from its home district, if there is such a decision, and if there is not, it may follow any of the conflicting decisions.

Justice Harrison’s recommended alternative—follow the most recent decision, regardless of district—is not the law, but it may be most faithful to Constitutional principles. If his recommendation is at odds with the popular understanding of the appellate court as being divided into different districts, it is consistent with the principle that the court is a unitary judicial body whose geographic connections do not matter to its jurisdiction or authority. His approach would have the advantage of providing certainty in those circuit courts whose districts have yet to weigh in on a recognized conflict between other districts. That certainty would come at a cost; his approach would also diminish the certainty enjoyed by circuit courts in districts where the appellate court has taken a side. But that may be a minimal cost. The very existence of the conflict raises the possibility that the supreme court will resolve it, presumably rejecting one side of the conflict—and until then, giving neither side’s proponents much certainty as to which side will carry the day.

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