

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FIVE

MICHAEL J. BANKS AND)	No. ED99357
ANTONIA BANKS,)	
)	
Appellants,)	
)	Appeal from the Circuit Court
vs.)	of the City of St. Louis
)	
FRANCIS G. SLAY, DARLENE GREEN,)	Honorable Bryan L. Hettenbach
LARRY C. WILLIAMS AND)	
BETTYE BATTLE TURNER,)	
)	
Respondents.)	Filed: October 8, 2013

Before Robert M. Clayton III, C.J., Gary M. Gaertner, Jr., J., and Zel M. Fischer, Sp.J.

Michael J. Banks and Antonia Rush-Banks (“Plaintiffs”) appeal the judgment of the trial court denying their petition for writ of mandamus against Francis G. Slay, Darlene Green, Larry C. Williams, and Bettye Battle Turner (collectively “Defendants”). Plaintiffs argue a writ of mandamus should issue to enforce a default judgment entered against a police officer acting in his official capacity against the City of St. Louis and the St. Louis Board of Police Commissioners. Plaintiff relies on the United States Supreme Court decision in *Brandon v Holt*, 469 U.S. 464 (1985).

PETITION FOR WRIT DENIED.

Division Five Holds: The circuit court failed to follow the procedure in Supreme Court Rule 94.04; however, whether considered an appeal or a petition for an original writ, the result is the same. The United States Supreme Court decision in *Brandon v Holt* does not impose a direct or unequivocal liability on the City and the Board. The cases are factually and legally distinguishable in that the City and the Board did not have notice and the opportunity to defend in the action against the officer, and no nexus was established between the officer’s individual actions and any action of the City or the Board to extend liability to either entity.

PER CURIAM

Attorney for Appellant: Robert Herman
Attorneys for Respondent: Patricia A. Hageman, Daniel J. Emerson, Mark Lawson

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
SHOULD NOT BE QUOTED OR CITED.**