

Summary of SC89245, Gary Roberts v. State of Missouri

Appeal from the St. Francois County circuit court, Judge Kenneth Wayne Pratte.

Attorneys: Roberts was represented by Jessica M. Hathaway of the public defender's office in St. Louis, (314) 340-7662, and the state was represented by Mr. Jamie P. Rasmussen of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A circuit court denied an evidentiary hearing to a man who sought postconviction relief after pleading guilty as part of a group plea proceeding, alleging his attorney failed to object or attempt to withdraw the plea after the prosecutor added a caveat to the plea. In a 6-1 decision written by Judge Mary R. Russell, the Supreme Court of Missouri reverses the circuit court's decision and remands (sends back) the case for an evidentiary hearing. The man pleaded facts sufficient to show he *may be* entitled to relief – requiring that he receive an evidentiary hearing – although he still must prove he *is* entitled to relief. Judge William Ray Price Jr. dissents, noting that the man told the circuit court he understood the sentence and was satisfied with his attorney and that, even if there was a misunderstanding, the man was not prejudiced because the court's sentencing decision was based not on the state's stance on institutional treatment but rather on the sentencing assessment report and the man's past criminal record.

Facts: Gary Roberts was part of a group of unrelated criminal defendants who, as a group, entered guilty pleas. Roberts pleaded guilty to two counts of possession of a controlled substance. Roberts' understanding of his plea was that he would receive two consecutive terms of seven years in prison and that the state would not oppose his participation in an institutional drug and alcohol treatment program. At the plea hearing, the prosecutor said the state did not oppose institutional treatment "if it was recommended." Roberts indicated he understood his plea, and his attorney did not object to the state's description of the plea. The sentencing assessment report, however, did not recommend Roberts for treatment, and he was sentenced to 14 years in prison with no treatment. He subsequently sought postconviction relief. He alleged that his plea was not voluntary and that the state changed the terms of his plea agreement by adding the caveat "if recommended," resulting in prejudice to him. He also alleged his attorney was ineffective for not objecting to the state's characterization of the plea agreement or for not seeking to withdraw Roberts' plea. The circuit court rejected Roberts' request for relief without an evidentiary hearing. Roberts appeals.

REVERSED AND REMANDED.

Court en banc holds: (1) The circuit court clearly erred in denying Roberts an evidentiary hearing on his motion for postconviction relief. Under Rule 24.035(h), a circuit court should deny a postconviction relief movant an evidentiary hearing only if the record conclusively shows the movant is not entitled to relief. The record in Roberts' case, however, does not show conclusively that he is not entitled to relief. He has pleaded facts that, if true, support his allegations that his counsel was ineffective for failing to object or seek withdrawal of his plea after there was a discrepancy between the plea negotiations and the plea agreement the prosecutor presented in court and that his counsel's alleged ineffectiveness impacted whether his plea was voluntary. Roberts suggests he was confused by the prosecutor's characterization of his plea agreement because his plea was entered as part of a group plea and his attorney simultaneously was representing six defendants at the group plea proceeding. At his evidentiary hearing, Roberts will bear the burden of showing he ultimately is entitled to postconviction relief.

(2) Group guilty pleas are not preferred and should be used sparingly. They are used as a time-saving mechanism in some of Missouri's circuit courts, although their use has been criticized repeatedly by the court of appeals in Missouri and by courts in other states. Such proceedings unnecessarily increase the opportunities for mistake or confusion, where, for example, minor alterations to the terms of a plea agreement might be missed or misunderstood by defendants or counsel.

Dissenting opinion by Judge Price: The author would hold the motion court did not err in denying Roberts an evidentiary hearing because the record conclusively shows Roberts' plea was voluntary and his counsel was not ineffective. The record of the plea and sentencing hearing – the only recorded recitation of the plea agreement – clearly shows that the sentencing assessment report did not recommend institutional treatment followed by probation; the circuit court relied on this report and Roberts' past criminal record in refusing institutional treatment and probation, without argument by the prosecutor; and that, as agreed to in the plea agreement, Roberts received two consecutive seven-year sentences and the state dismissed four other charges. The court questioned Roberts individually, and he affirmed his plea, affirmed that he understood his sentence and affirmed that he was satisfied with attorney. Even if there was a misunderstanding, it did not prejudice Roberts because the court's decision had nothing to do with the state's opposition or lack of opposition to institutional treatment.