

Summary of SC93020, *State ex rel. William J. Sitton v. Jeff Norman*

Proceeding originating in the Cole County circuit court, Judge Daniel R. Green
Argued and submitted May 21, 2013; opinion issued July 30, 2013

Attorneys: Sitton was represented by Craig A. Johnston of the public defender's office in Columbia, (573) 882-9855; and the state was represented by Stephen D. Hawke 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 man seeks relief from his conviction, alleging the trial court permitted otherwise qualified jurors to opt out of jury service by agreeing to perform community service, which was a fundamental and systematic failure to comply with statutory jury selection requirements. In a 6-1 decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri finds no claim warranting relief and remands (sends) the man to the custody of the prison warden. Judge George W. Draper III dissents with no opinion.

Facts: A Lincoln County jury found William Sitton guilty of involuntary manslaughter and armed criminal action, and the court sentenced him to consecutive terms of seven and 18 years in prison. At the time of trial, Lincoln County allowed prospective jurors to opt out of jury service by performing community service and paying a fee of \$50. Five individuals who could have been called as jurors in Sitton's trial opted out of jury service. Sitton now seeks relief from his convictions.

PETITIONER IS REMANDED TO CUSTODY OF RESPONDENT.

Court en banc holds: Sitton has not demonstrated that allowing five individuals who could have been called as jurors to opt out of jury service substantially interfered with the selection of jurors in his case or undermined the confidence in the verdict. His claim that the opt-out practice violated statutory jury selection requirements would have been appropriate in his direct appeal and his motion for post-conviction relief, but he did not raise it then. The facts demonstrate Sitton has not established prejudice warranting habeas relief. The fact that the opt-out practice allowed otherwise qualified jurors to perform community service in lieu of jury service does not necessarily mean that the practice constitutes a substantial failure to comply with the jury selection statutes or impacted the randomness of jury selection.