

Summary of SC94886, *State ex rel. James Dean Hodges v. The Honorable Jodie Asel and George Lombardi*

Proceeding originating in the Boone County circuit court, Judge Jodie Asel
Argued and submitted May 19, 2015; opinion issued May 26, 2015

Attorneys: Hodges was represented by Bradley H. Lockenvitz, an attorney in Columbia, (573) 280-8365, and Frederick H. Schwetye, an attorney in Union. The state was represented by Caroline M. Coulter of the attorney general's office in Jefferson City, (573) 751-3321, and Boone County Prosecuting Attorney Daniel K. Knight and J. Hasbrouck Jacobs of the county prosecutor's office in Columbia, (573) 886-4100.

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 chronic offender seeks a writ mandating his release from prison due to his completion of his long-term treatment program but prior to serving at least two years in prison. In a unanimous decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri denies the writ. There is no conflict between the chronic offender statute's requirement that a chronic offender serve at least two years in prison and the long-term treatment program statute, which merely requires the board of probation and parole to notify the circuit court of an offender's release date 30 days prior to the release.

Facts: James Dean Hodges pleaded guilty in June 2013 to one count of driving while intoxicated. The circuit court determined he was a chronic offender pursuant to section 577.023.6(4), RSMo, sentenced him to five years in prison and placed him in a long-term substance abuse treatment program established by section 217.632, RSMo. Hodges completed the program successfully, and the board of probation and parole so informed the court. The board advised the court Hodges would be eligible for probation on June 8, 2015 – a calculation based on the requirement of section 577.023.6(4) that a chronic offender serve at least two years in prison. Hodges filed a motion for immediate release because he had completed the treatment program successfully. The court did not release him, noting he was required to serve at least two years in prison before becoming eligible for parole. Hodges seeks a writ from this Court to mandate his immediate release from prison.

WRIT DENIED.

Court en banc holds: Hodges is not entitled to immediate release. There is no conflict between the long-term treatment statute and the requirement of section 577.023.6(4) that a chronic offender serve a minimum of two years in prison. The plain language of section 217.632, however, requires only that the board of probation and parole advise the circuit court of an offender's probationary release date 30 days prior to release – it does not mandate that such release be immediately following completion of the treatment program. Further, the statute dictating the minimum prison term was enacted after the treatment program statute. The board complied with the statutes in advising the court that Hodges is eligible for parole on June 8.