

Summary of SC94913, *State ex rel. Robert H. Mammen v. The Honorable Thomas N. Chapman*

Proceeding originating in the Livingston County circuit court, Judge Thomas N. Chapman
Argued and submitted May 19, 2015; opinion issued May 26, 2015

Attorneys: Mammen was represented by Samuel Buffaloe of the public defender's office in Columbia, (573) 777-9977. The state was represented by Caroline M. Coulter of the attorney general's office in Jefferson City, (573) 751-3321, and Livingston County Prosecuting Attorney Adam L. Warren of Chillicothe, (660) 646-8000.

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: A jury found Robert Mammen guilty of driving while intoxicated. The circuit court determined he was a chronic offender pursuant to section 577.023.6(4), RSMo, and sentenced him to 10 years in prison and placed him in a long-term substance abuse treatment program established by section 217.632, RSMo. Mammen completed the program successfully, and the board of probation and parole so informed the court. The board advised the court Mammen would be eligible for probation on June 24, 2015 – a calculation based on the requirement of section 577.023.6(4) that a chronic offender serve at least two years in prison. The circuit court ordered that Mammen be released in accordance with the board's recommendation. Mammen seeks a writ from this Court to mandate his immediate release from prison.

WRIT DENIED.

Court en banc holds: Mammen is not entitled to immediate release. The use of the phrase “notwithstanding any other provision of law to the contrary” in section 217.362.2 does not bar application of section 577.023.6(4) to this case. Accordingly, the reasons described in this Court's opinion in *State ex rel. Hodges v. Asel* (Case No. SC94886, also decided today), also apply in Mammen's case.