

**Summary of SC94936, *State of Missouri v. Raymond Robinson*, and SC94989, *State of Missouri v. Steve Lomax***

Appeals from the St. Louis city circuit court, Judges Robert H. Dierker and Steven R. Ohmer  
Argued and submitted October 27, 2015; opinion issued February 9, 2016

**Attorneys:** In SC94936, Robinson was represented by Patrick R. Kurtz of the public defender's office in St. Louis, (314) 340-7625. In SC94989, Lomax was represented by Marissa Ulman of the public defender's office in St. Louis, (314) 340-7625.

In both cases, the state was represented by Aaron Levinson and Veronica Harwin of the St. Louis circuit attorney's office in St. Louis, (314) 622-4941.

Also in both cases, several parties filed briefs as friends of the Court. The city of St. Louis was represented by Winston E. Calvert, Erin McGowan and Matthew S. Dionne of the St. Louis city counselor's office in St. Louis, (314) 622-3361. The St. Louis Regional Chamber was represented by J. Bennett Clark, Lee Marshall, Jason Meyer and Mary Longenbaker of Bryan Cave LLP in St. Louis, (314) 259-2000, and Jason R. Hall of the regional chamber in St. Louis, (314) 444-1175. The St. Louis archdiocese was represented by Thomas M. Buckley of St. Louis, (314) 792-7075. The Demetrious Johnson Charitable Foundation was represented by Douglas P. Dowd and Lia Obata Dowd of Dowd & Dowd PC in St. Louis, (314) 621-2500. SSM Health was represented by J. Andrew Walkup of St. Louis, (314) 994-7800. The American Civil Liberties Union of Missouri Foundation was represented by Anthony E. Rothert and Jessie Steffan of the ACLU in St. Louis, (314) 652-3114, and Gillian R. Wilcox of the ACLU in Kansas City, (816) 470-9933. The Freedom Center of Missouri was represented by David E. Roland of Mexico, Missouri, (314) 604-6621.

*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:** The state appeals both circuit courts' holdings that article I, section 23 of the state constitution, as amended by Amendment 5 adopted in 2014, does not permit the state to prohibit nonviolent felons from bearing arms. In a 5-2 decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri reverses the circuit courts' dismissals of counts of unlawful possession of a firearm and remands (sends back) the cases. This Court recently held that article I, section 23 as in effect prior to the adoption of Amendment 5 did not prohibit the state from regulating the possession of arms by nonviolent felons and that the pre-Amendment 5 version of article I, section 23 applies to crimes committed prior to adoption of that amendment. That ruling directly applies in these cases.

Judge Richard B. Teitelman dissents for the same reasons he expresses in his dissent in *State v. Clay*, also decided today. He would affirm the judgments dismissing the charges.

**Facts:** Raymond Robinson was arrested after police received a tip that he possessed a pistol. Robinson had a prior conviction for the nonviolent felony of unlawful use of a weapon. The state charged him with unlawfully possessing a firearm in violation of section 571.070.1, RSMo. Steve Lomax similarly was arrested and later charged with a violation of section 571.070.1. While charges were pending in both cases, voters approved Amendment 5 to article I, section 23 relating to the right to bear arms. Robinson and Lomax moved to dismiss the counts of unlawful

possession of a firearm, alleging that as amended by Amendment 5, article I, section 23 prohibited the regulation of nonviolent felons' right to bear arms. The circuit court dismissed the counts of unlawful possession of a firearm. The state appeals.

**REVERSED AND REMANDED.**

**Court en banc holds:** Nonviolent felons can be prosecuted for possession of firearms without violating article I, section 23. The right of the state to regulate a nonviolent felon's possession of a firearm is governed by the version of article I, section 23 in effect at the time of the crime. Robinson's and Lomax's alleged crimes occurred prior to the passage of Amendment 5 to article I, section 23. This Court recently ruled that the pre-Amendment 5 version of article I, section 23 did not prohibit the state from regulating the right of nonviolent felons to bear arms. Those decisions apply in these cases.

**Dissenting opinion by Judge Teitelman:** For the reasons expressed in his dissenting opinion in *State v. Clay*, also decided today, the author would hold the restriction on nonviolent felons such as Robinson and Lomax of the constitutional right to bear arms is not permissible under the strict scrutiny standard. Accordingly, he would affirm the judgments dismissing the charges.