

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, EX REL.  
CHRIS KOSTER**

**v.  
BRENT M. QUICK**

**APPELLANT,**

**RESPONDENT.**

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DOCKET NUMBER WD71459

DATE: December 14, 2010

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Appeal From:

Cole County Circuit Court  
The Honorable Jon Edward Beetem, Judge

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Appellate Judges:

Division Three: James M. Smart, Jr., Presiding Judge, Joseph M. Ellis and Gary D. Witt, Judges

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Attorneys:

Laura E. Elsbury, Jefferson City, MO, for appellant.

Gary L. Stamper, Columbia, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

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WESTERN DISTRICT**

**STATE OF MISSOURI, EX REL.  
CHRIS KOSTER,**

**APPELLANT,**

**v.**

**BRENT M. QUICK,**

**RESPONDENT.**

No. WD71459

Cole County

Before Division Three Judges: James M. Smart, Jr., Presiding Judge, Joseph M. Ellis and Gary D. Witt, Judges

The State of Missouri appeals the judgment of the trial court denying it recovery under the Missouri Incarceration Reimbursement Act (MIRA).

**AFFIRMED.**

**Division Three holds:**

For ease of analysis we address the State's points in reverse order.

In Point Two, the State argues the trial court erred in entering judgment for Brent Quick because Quick failed to rebut the State's *prima facie* case in that the State presented evidence showing that Quick was incarcerated in Missouri and that he had assets subject to a MIRA judgment. After the State presented its evidence, the trial court in accordance with Section 217.835.2, issued an Order to Show Cause that instructed Quick to respond in writing showing why an order should not be entered ordering him to reimburse the State for the costs of his confinement. Quick responded with a letter setting forth that he had no assets. The State claims that this letter does not constitute evidence because it was unverified. We need not address whether the letter should have been admitted into evidence because the State did not object to the trial court's use of the evidence at the hearing. Point Two is denied.

In Point One, the State argues that the trial court erred in interpreting the word "value" in the homestead exemption, Section 217.827(1)(b)(a), to mean the owner's net equity rather than the market value of the property. MIRA requires that before the Attorney General can attempt to obtain a judgment against an inmate that a showing be made that the inmate has assets that could be used for reimbursement. The statute sets out certain threshold amounts that are likely to be recovered before the Attorney General is authorized to obtain a judgment against an inmate. Quick owned a home worth \$87,600 subject to an \$84,000 mortgage. The State's argument that the homestead exemption applies to the first \$50,000 of market value would render the *exemption* meaningless for property that is encumbered by prior liens of \$50,000 and greater. Although the statute appears to grant the State a "super-priority" lien under MIRA that would

take precedence over all previously filed mortgages or liens on the property, the State has conceded that the "super-priority" provision of the MIRA framework potentially poses constitutional concerns and, therefore, the State grants prior mortgages and liens priority. However, the State argues that the prior mortgages and liens should not be considered in determining whether the State could recover the MIRA threshold amounts. To follow the State's proposed construction would render the exemption meaningless. Interpreting the word "value" in the homestead exemption to mean "net equity" better conforms to the purpose behind MIRA that seeks to ensure that the State will likely receive some threshold amount of recovery before being able to initiate an action to obtain a MIRA judgment against an inmate. Point One is denied.

**Opinion by: Gary D. Witt, Judge**

December 14, 2010

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