

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

GORDON GOLDSBY, APPELLANT,

v.

**GEORGE LOMBARDI, DIRECTOR
MISSOURI DEPARTMENT OF
CORRECTIONS, APPELLANT.**

DOCKET NUMBER WD72183

DATE: August 17, 2010

Appeal From:

COLE COUNTY CIRCUIT COURT

THE HONORABLE JON EDWARD BEETEM, JUDGE

Appellate Judges:

Division Three: James M. Smart, Jr., P.J., Joseph M. Ellis and Gary D. Witt, JJ.

Attorneys:

Gordon Goldsby, **appellant pro se.**

Jennifer Redel-Reed, Jefferson City, MO, **for respondent.**

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

GORDON GOLDSBY,

APPELLANT,

v.

**GEORGE LOMBARDI, DIRECTOR
MISSOURI DEPARTMENT OF
CORRECTIONS,**

RESPONDENT.

No. WD72183

Cole County

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

Gordon Goldsby, an inmate in the Missouri Department of Corrections (DOC), filed suit seeking declaratory and injunctive relief. He sought a declaration section 217.175 “violates the constitution(s) of Missouri and the United States, as being vague and ambiguous.” The injunctive relief Goldsby sought at that time was the return of his denim jacket in the event that the trial court ruled the statute unconstitutional. The court entered an Order and Judgment that granted the Director of the DOC’s motion to dismiss and denied Goldsby’s request for declaratory and injunctive relief. Goldsby appeals.

DISMISSED.

Division Three holds:

Goldsby makes much of the fact that he challenges only the constitutionality of section 217.175 on appeal and says that he is not now requesting his jacket back. Goldsby does not challenge section 217.197, which allows the DOC to establish policy that regulates the “amount and type of personal property an offender housed in a correctional center may possess.” Instead, he argues that a different statute—a more general one empowering the DOC directors to adopt general rules and regulations (section 217.175)—should be held void for vagueness because the statute allowed the DOC to make policy that justified the seizure of his jacket depicting a man holding a gun, and such seizure was in violation of his free speech rights. With Goldsby abandoning his claim for return of the coat, and with Goldsby declining to challenge the statute that specifically authorized the regulation of personal property by the DOC, it is impossible to see what remains for adjudication. Because there is nothing here to be decided, we dismiss this appeal as moot.

This summary is UNOFFICIAL and should not be quoted or cited.
