

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**AARON W. WATKINS**

**APPELLANT,**

**v.**

**MISSOURI DEPARTMENT OF CORRECTIONS AND MISSOURI BOARD OF  
PROBATION AND PAROLE**

**RESPONDENTS.**

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**DOCKET NUMBER WD73279  
MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE: August 9, 2011**

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Appeal From:

Cole County Circuit Court  
The Honorable Paul Campbell Wilson, Judge

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Appellate Judges:

Division Two: James M. Smart, Jr., P.J., Mark D. Pfeiffer and Cynthia L. Martin, JJ.

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Attorneys:

Aaron W. Watkins, Appellant Pro Se.

Shaun J. Mackelprang and Terrence M. Messonnier, Jefferson City, MO, for **Respondents.**

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
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**AARON W. WATKINS,**

**APPELLANT,**

**v.**

**MISSOURI DEPARTMENT OF CORRECTIONS AND MISSOURI BOARD OF  
PROBATION AND PAROLE,**

**RESPONDENTS.**

No. WD73279

Cole County

Before Division Two: James M. Smart, Jr., P.J., Mark D. Pfeiffer and Cynthia L. Martin, JJ.

In May 1992, Aaron Watkins committed the offense of forcible rape. In February 1995, he entered a guilty plea to that offense and was sentenced to life imprisonment as a prior and persistent offender. In June 2010, Watkins filed a petition for declaratory judgment against the Department of Corrections ("DOC") and the Board of Probation and Parole ("Board") claiming that: (1) the DOC and Board had no authority to "change the classification" of his offense by treating an unclassified felony as a class A felony for purposes of calculating his parole eligibility; and (2) that the DOC and the Board should be required to recalculate his life sentence under the amended version of section 558.019, RSMo, in effect at the time of his sentencing. The DOC and Board filed a motion to dismiss the petition for declaratory judgment. Watkins filed a summary judgment and a request for judgment on the pleadings. The trial court granted the motion to dismiss. In its judgment, the court found that section 558.019 clearly provided that the 1994 amendments to the statute do not apply retrospectively to offenses occurring prior to August 1994. The court also found that it was appropriate to treat the rape offense as a class A felony for purposes of determining parole eligibility.

On appeal, Watkins claims the trial court erred in granting the Board's and DOC's motion to dismiss his petition for declaratory judgment, alleging that: (1) it was improper for the DOC and the Board to treat an unclassified felony as a class A felony for the purpose of calculating parole eligibility; and (2) that the DOC and the Board should be required to recalculate his life sentence under the amended version of section 558.019, as being equivalent to thirty years for the purpose of determining parole eligibility. Watkins also claims the trial court erred in granting the motion to dismiss because section 558.019 applies only to class A or B felonies with regard to minimum prison terms.

**AFFIRMED.**

**Division Two holds:** The trial court did not err in granting the motion to dismiss Watkins's petition for declaratory judgment because the 1994 amended version of section 558.019 does not apply retrospectively to offenses occurring prior to August 1994. Therefore, the DOC and Board

properly calculated his life sentence to be equivalent to fifty years pursuant to the statute in effect at the time of his offense.

The trial court did not err in determining that even if Watkins's offense was initially listed as an "unclassified" felony, he was still subject to the minimum term provisions under section 558.019, based upon the express language of section 557.021, where an unclassified felony may be treated as a class A felony if the authorized punishment includes life imprisonment; and because the statute also applies to "dangerous felonies," including forcible rape. Based on the trial court's finding that Watkins was a persistent offender, it was not improper for the DOC and the Board to require Watkins to serve sixty percent of his sentence before being eligible for parole.

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