

No. SC88026

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IN THE  
SUPREME COURT OF MISSOURI

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SHIRLEY LUTE,

Petitioner,

vs.

MISSOURI BOARD OF PROBATION  
AND PAROLE; DANA THOMPSON,  
IN HIS OFFICIAL CAPACITY AS  
CHAIRMAN, MISSOURI BOARD OF  
PROBATION AND PAROLE; and  
JENNIFER MILLER, IN HER  
OFFICIAL CAPACITY AS  
SUPERINTENDENT, CHILLICOTHE  
CORRECTIONAL CENTER

Respondents.

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PETITIONER'S REPLY

WASHINGTON UNIVERSITY  
SCHOOL OF LAW  
CIVIL JUSTICE CLINIC

JANE H. AIKEN  
Missouri Bar No. 49411

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Missouri Bar No. 34149

One Brookings Drive  
St. Louis, Missouri 63130-4899

**IN THE MISSOURI SUPREME COURT**

SHIRLEY LUTE,	)	
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
MISSOURI BOARD OF PROBATION	)	
AND PAROLE; DANA THOMPSON,	)	Case No. SC88026
IN HIS OFFICIAL CAPACITY AS	)	
CHAIRMAN, MISSOURI BOARD OF	)	
PROBATION AND PAROLE; and	)	
JENNIFER MILLER, IN HER	)	
OFFICIAL CAPACITY AS	)	
SUPERINTENDENT, CHILLICOTHE	)	
CORRECTIONAL CENTER	)	
	)	
Respondents.	)	

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**REPLY**

Respondent’s Brief reinforces the position of the State that it will not give effect to the Governor’s intent when he granted Shirley Lute her sentence commutation two years ago. In an effort to distinguish *People v. Morris*, Respondents call the *Morris* case a “true commutation” thus inferring that the Constitutional grace of Governor Holden is somehow a lesser commutation. Resp. Brief at 12, n. 1. It is a low point of our system of justice that this intra-executive branch, internecine dispute is balanced on the liberty of Shirley Lute. The new Board might be excused for making an error about the terms of Ms. Lute’s commutation to the extent that it found ambiguity or lack of guidance in the plain

language. That assertion is arguably disingenuous given that the clemency was exercised in consultation with the Board. It is now inexcusable that it turns a deaf ear to the only person who knows the extent and limits of his completely discretionary exercise of grace and mercy.

Governor Holden's commutation of Shirley Lute's sentence two years ago was a true commutation. Her continued incarceration is a true tragedy. Petitioner respectfully requests that she be brought to this Court and released.

Date: January 9, 2007

Respectfully submitted,

WASHINGTON UNIVERSITY  
SCHOOL OF LAW  
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**CERTIFICATE OF COMPLIANCE**

By submitting this brief, the undersigned counsel for Petitioner hereby certifies the following:

1. This brief conforms with Missouri Rule of Civil Procedure 55.03;
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