

**MISSOURI COURT OF APPEALS, WESTERN DISTRICT  
Division Three**

**Cynthia Martin, Presiding Judge  
Mark D. Pfeiffer, Judge  
Edward R. Ardini Jr., Judge**

**April 11, 2024  
Truman State University  
Kirksville, Missouri**

**WD86602**

**State of Missouri, Appellant,**

**v.**

**Larry Daniel Brashier, Respondent.**

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Appellant State of Missouri appeals the order of the Circuit Court of Boone County suppressing certain statements Respondent Larry Brashier made to law enforcement. On February 16, 2023, an officer responded to a call from University Hospital about a patient with a self-inflicted gunshot wound. When the deputy arrived, Brashier was in a room with several nurses and appeared to have a gunshot wound on his right leg. The deputy believed that Brashier was under the influence of some form of medication but that Brashier sounded coherent. The deputy did not give Brashier a warning under *Miranda v. Arizona*, 384 U.S. 436 (1966), but proceeded to ask Brashier several questions about what had happened. When hospital personnel needed to provide additional medical care, the deputy left without arresting Brashier. Brashier was eventually arrested and charged with unlawful possession of a firearm. Brashier sought to suppress the statements he made to the deputy at the hospital, because he alleged that he was in custody at the time he made those statements. He also argued that the questioning itself was coercive because of the length and nature of his custody, the duration of the interrogation, and the conditions under which it was conducted. The circuit court held a hearing on Brashier's motion to suppress. At the conclusion of a hearing, the circuit court orally found that Brashier's statements were voluntary, that he was not in custody at the time they were made, but that the deputy should have given a *Miranda* warning and, as such, granted the motion to suppress. This interlocutory appeal followed.

Appellant's point on appeal:

1. The trial court clearly erred in sustaining Defendant's motion to suppress on the basis that Deputy J.H. was required to provide the *Miranda* warnings to Defendant, because the trial court misapplied the law, in that the trial court found that Defendant was not in custody and *Miranda* warnings are only required when the defendant is in custody.

**WD86457**

**Genesis School, Inc., Respondent,**

**v.**

**Missouri Charter Public School Commission, et al., Respondent; Missouri State Board of Education, Appellant.**

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Appellant Missouri State Board of Education (“Board”) appeals the judgment of the Circuit Court of Cole County overturning the Board’s decision to revoke Respondent Genesis School, Inc.’s (“Genesis School”) public school charter. Genesis School is a public charter school sponsored by the Missouri Charter Public School Commission (“MCPSC”). MCPSC is responsible for ensuring that Genesis complies with all applicable statutes, including the Missouri Charter Schools Act. MCPSC became Genesis School’s sponsor after the Board transferred sponsorship to MCPSC while Genesis School was on probation with a prior sponsor, due to declining academic performance and growth. On January 30, 2023, MCPSC held a hearing during which it decided to revoke Genesis School’s charter. Genesis School appealed to the Board which in turn held a meeting. Genesis School alleges that during that meeting the Board admitted that MCPSC’s revocation proceedings were deficient but that the Board still voted to revoke Genesis School’s charter. Genesis School filed a petition for juridical review in the Circuit Court of Cole County. The circuit court found that the Board’s revocation was unlawful and arbitrary. This appeal followed.

Appellant’s point on appeal:

1. The trial court erred in overturning the State Board’s decision to revoke Genesis’ public school charter and finding that the State Board’s decision as unlawful and arbitrary, because Genesis lacked standing to appeal the State Board’s decision under § 536.150, RSMo, in that Genesis’ public charter school is a public entity and the legislature expressly removed Genesis’ ability to appeal under § 536.150, RSMo.

**WD86481**

**Willa Hynes, Appellant-Respondent,**

**v.**

**Missouri Department of Corrections, Respondent-Appellant.**

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Both Appellant-Respondent Willa Hynes and Respondent-Appellant Missouri Department of Corrections (“Department”) appeal the judgment of the Circuit Court of Cole County regarding Hynes request for certain documents from the Department pursuant to Chapter 610 of the Missouri Revised States, known as Missouri’s Sunshine Law. Hynes’s son died while in the custody and care of the Department. Hynes sought to obtain records relating to her son’s death, and any subsequent investigation, through a Sunshine Law request. The Department declined to provide Hynes with records alleging that the requested records are exempt from disclosure pursuant to section 217.075, RSMO (2016). Hynes filed a petition for injunctive and declaratory relief, pursuant to the Sunshine Law, in the circuit court. The circuit court entered partial summary judgment, and the parties appealed. This court dismissed the appeal, finding that the

circuit court's judgment was not a "final judgment" and that the appellate court therefore lacked jurisdiction to hearing the appeal. This court remanded the matter to the circuit court for a hearing on whether the Department's violation of the Sunshine Law was done knowingly or purposefully. The circuit court entered judgment finding that the Department knowingly and purposefully violated the Sunshine Law. Both parties appealed the circuit court judgment.

Appellant-Respondent's points on appeal:

1. The circuit court erred in finding that the Missouri Department of Corrections is not a "law enforcement agency" for purposes of complying with § 610.100, RSMo, of the Missouri Sunshine Law because the finding subverts the intent of the legislature, in that it allows the Department to deny prompt and full access to records and reports pertaining to its internal investigations of in-custody deaths and leads to the absurd and oppressive result of allowing the Department to shield itself from public scrutiny and potential civil liability.
2. The circuit court erred in ordering that, prior to producing documents, the Department may seek a protective order "that would be appropriate for documents produced in discovery in a wrongful death case" because the court's order is in direct conflict with the legislature's intent in enacting the Sunshine Law, in that the records the court ordered the Department to produce are open records under the Sunshine Law.

Respondent-Appellant's points on appeal:

1. The circuit court erred in declaring that Missouri Department of Corrections violated the Sunshine Law by denying Hynes access to "offender records" and the reports and records pertaining to the investigation of Hynes' son's death and ordering their disclosure because those records are not public records under the Sunshine Law, in that they are documents that relate to institutional security and closed under § 217.075, RSMo.
2. The circuit court erred in finding that Missouri Department of Corrections knowingly and purposefully violated the Sunshine Law, imposing a civil penalty against Missouri Department of Corrections, and awarding attorney's fees because such finding was not supported by substantial evidence, in that the evidence presented did not show Missouri Department of Corrections violated the Sunshine Law with a conscious design, intent, or plan to violate the law and did so with awareness of the probable consequences.
3. The circuit court erred in finding that Missouri Department of Corrections knowingly and purposefully violated the Sunshine Law, imposing a civil penalty against Missouri Department of Corrections, and awarding attorney's fees because such finding is against the weight of the evidence, in that the evidence presented did not show Missouri Department of Corrections violated the Sunshine Law with a conscious design, intent, or plan to violate the law and did so with awareness of the probable consequences.

**WD86332**  
**RVR Enterprises, Inc., Appellant,**  
**v.**  
**Cinnamon Hill, LLC, et al., Respondents.**

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Appellant RVR Enterprises, Inc. (“RVR”) appeals the judgment of the Circuit Court of Boone County denying RVR a permanent injunction to prevent Respondent Cinnamon Hill, LLC (“Cinnamon Hill”) from building a hotel/motel on certain property in question. RVR purchased property from MDS Real Estate Associates, LLC (“MDS”). As part of the purchase, MDS agreed that it would not allow for the operation of any hotels or motels on any property it still owned and had yet to convey. MDS subsequently sold land to Cinnamon Hill, and RVR filed suit to enforce the restriction that the land not be used to operate a hotel or motel. Cinnamon Hill filed a motion for judgment on the pleadings contending that the restriction did not run with the land, that there was no privity of contract between RVR and Cinnamon Hill, and that the enforcement of the contract would violate the statute of frauds. The circuit court sustained Cinnamon Hill’s motion and granted it judgment on all claims brought by RVR against Cinnamon Hill. The circuit court certified the judgment for immediate appeal pursuant to Rule 74.01(b), and this appeal followed.

Appellant’s points on appeal:

1. The trial court erred in sustaining Respondent Cinnamon Hill, LLC’s motion for judgment on the pleadings, because the court failed to give notice as provided by Rule 55.27(b) that it was treating the motion as a motion for summary judgment in that plaintiff did not have a reasonable opportunity to present all materials made pertinent to such a motion by Rule 74.04.
2. The trial court erred in sustaining Respondent Cinnamon Hill, LLC’s motion for judgment on the pleadings, because it is reversible error to grant a motion for judgment on the pleadings when a genuine issue of material fact exists in that Cinnamon Hill, LLC disputed material facts in its answer to the first amended petition and the denial of these allegations by Cinnamon Hill, LLC, created a genuine issue of material fact which cannot be resolved by a judgment on the pleadings.
3. The trial court erred in sustaining Respondent Cinnamon Hill, LLC’s motion for judgment on the pleadings, because the court misapplied the law in that the court determined that the restrictive covenant was not enforceable as to Cinnamon Hill, LLC, since the restrictive covenant was not recorded.