MISSOURI COURT OF APPEALS
WESTERN DISTRICT

RANDALL GRAVES

APPELLANT,

v.

MISSOURI DEPARTMENT OF CORRECTIONS, THE DIVISION OF PROBATION AND PAROLE

RESPONDENT.

DOCKET NUMBER WD83027

DATE: March 31, 2020

Appeal From:

Cole County Circuit Court
The Honorable Daniel R. Green, Judge

Appellate Judges:

Division Two: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge and Gary D. Witt, Judge

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Attorneys:

Matthew G. Mueller, Kansas City, MO, for appellant/

Justin C. Moore, St. Louis, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

RANDALL GRAVES, APPELLANT,
v.
MISSOURI DEPARTMENT OF CORRECTIONS, THE DIVISION OF PROBATION AND PAROLE, RESPONDENT.

WD83027 Cole County

Before Division Two Judges: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge, and Gary D. Witt, Judge

Randall Graves ("Graves") appeals from the Circuit Court of Cole County's dismissal of his Petition for Declaratory Judgment alleging the "antiattachment" provisions of 42 U.S.C. § 407(a) prohibit the Missouri Department of Corrections ("DOC") from collecting probation intervention fees from Graves's Supplemental Security Income.

Graves was sentenced to six years in DOC with execution of that sentence suspended and Graves was placed on supervised probation with DOC's Division of Probation and Parole. As a condition of his probation, Graves was ordered to pay an intervention fee in the amount of $30.00 each month. After Graves failed to make two payments, DOC sent Graves a letter that read in part: "Our records show you have an overdue balance of $60.00 on your current cycle," and Graves was warned that "[f]ailure to [pay intervention fees] may place you in violation status."

The circuit court dismissed Graves's Petition with prejudice on the grounds that his petition failed to state a claim. However, the case before the circuit court was not ripe because to render a judgment on the merits the court must assume that: (1) DOC would find Graves's nonpayment to be willful under the statute; (2) DOC would file a violation report based on nonpayment; (3) Graves would, at that time, have no other source of funds to pay intervention fees other than his supplemental security income; and (4) the sentencing court would agree with DOC's analysis regarding willfulness.

AFFIRMED AND AMENDED THE CIRCUIT COURT'S JUDGMENT.

Division Two holds:

We affirm the circuit court's judgment. However, because the controversy is not ripe at this time but could become ripe at a future time, the judgment is modified to a dismissal without prejudice pursuant to Rule 84.14.

Opinion: by Gary D. Witt, Judge March 31, 2020

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