MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE:

KEVIN E. RILEY

Respondent

v.

MISSOURI DEPARTMENT OF CORRECTIONS

Appellant

DOCKET NUMBER WD81743

DATE: April 28, 2020

Appeal From:

Circuit Court of Cole County, MO
The Honorable Daniel Richard Green, Judge

Appellate Judges:

Division Four
Karen King Mitchell, Chief Judge Presiding, Mark D. Pfeiffer and Thomas N. Chapman, Judges

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Attorneys:

Andrew Crane, Jefferson City, MO — Counsel for Appellant

Attorneys:

Daniel Hunt, Jefferson City, MO — Counsel for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

KEVIN E. RILEY, Respondent,
v.
MISSOURI DEPARTMENT OF CORRECTIONS, Appellant.

WD81743 **Cole County**

Before Division Four Judges: Mitchell, C.J., Pfeiffer, and Chapman, JJ.

Kevin Riley (Riley) was found guilty of the class B felony of manufacturing a controlled substance in violation of § 195.211, RSMo Cum. Supp. 2004. As a prior and persistent offender, he was sentenced to a term of imprisonment of twenty-five years to be served without probation or parole as required by § 195.291, RSMo 2000. Effective January 1, 2017, § 195.291 was repealed. Riley filed a petition for declaratory judgment against the Missouri Department of Corrections (DOC), alleging that the repeal of the parole ineligibility provision rendered him eligible for parole. The parties filed cross-motions for judgment on the pleadings, and the Circuit Court of Cole County, Missouri, entered judgment in Riley's favor. The DOC appeals.

REVERSED AND JUDGMENT ENTERED PURSUANT TO RULE 84.14.

Division Four holds:

At the time Riley was sentenced upon his conviction for the class B felony of manufacturing a controlled substance, § 195.291 required him to serve his sentence without the possibility of probation or parole. Under the Missouri Supreme Court's decisions in *Mitchell v. Phillips*, No. SC 97631, 2020 WL 547402 (Mo. banc Feb. 4, 2020) and *Woods v. Missouri Dep't of Corr.*, No. SC 97633, 2020 WL 548567 (Mo. banc Feb. 4, 2020), parole ineligibility was a mandated part of Riley's sentence and the circuit court was not authorized to change his sentence retroactively. Therefore, the circuit court erred in granting Riley's motion for judgment on the pleadings. The circuit court's judgment is reversed and a new judgment is entered in favor of the DOC pursuant to Rule 84.14.

Opinion by: Thomas N. Chapman, Judge April 28, 2020

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.