OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

CORDELL NICHOLS, JR,	)	No. ED108877
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of the City of St. Louis
vs.	)	
	)	Honorable Christopher E. McGraugh
THOMAS MCCARTHY,	)	
	)	
Respondent.	)	Filed: September 22, 2020

The appellant, Cordell Nichols, Jr., appeals the judgment entered by the Circuit Court of the City of St. Louis dismissing his petition for declaratory judgment. After unsuccessfully seeking a writ of mandamus, Nichols sought a judgment declaring that the circuit court is required to consider evidence of a defendant's ability to pay when fixing monetary conditions of release in bonds and initial arrest warrants. The circuit court dismissed Nichols's action for failure to state a claim on the ground that he had an adequate remedy at law in the form of a remedial writ in a higher court.

REVERSED AND REMANDED.

DIVISION THREE HOLDS: When, as here, relief by remedial writ is denied without opinion, the denial does not constitute a decision on the merits and has no preclusive effect. A defendant has no adequate remedy at law when he cannot obtain a decision on the merits of his claim. As a result, the circuit court erred in dismissing the action, and Nichols is entitled to a declaration of rights under the Declaratory Judgment Act.

Opinion by: Angela T. Quigless, P.J.

Kurt S. Odenwald, J. and James M. Dowd, J., concur

Attorneys for Appellant: Matthew George Mueller

Attorney for Respondent: Heidi Jill Johnson, Assistant Attorney General

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED