MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI ex rel. TAMY BARNES,

Relator,

v.

THE HONORABLE MARK B. PILLEY, ASSOCIATE CIRCUIT JUDGE, BENTON COUNTY, 30TH JUDICIAL CIRCUIT, MISSOURI,

Respondent.

DOCKET NUMBER WD84249

Date: May 4, 2021

Appeal from:
Benton County Circuit Court
The Honorable Mark B. Pilley, Judge

Appellate Judges:
Writ Division: Lisa White Hardwick, Presiding Judge, and Alok Ahuja and W. Douglas Thomson, Judges

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Attorneys:
Fawzy T. Simon, Camdenton for relator
Karen Woodley, Warsaw for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI ex rel. TAMY BARNE, Relator,
v.
THE HONORABLE MARK B. PILLEY, ASSOCIATE CIRCUIT JUDGE, BENTON COUNTY, 30TH JUDICIAL CIRCUIT, MISSOURI, Respondent.

WD84249 Benton County

Before Writ Division Judges: Lisa White Hardwick, Presiding Judge, and Alok Ahuja and W. Douglas Thomson, Judges

In August 7, 2018, Relator Tamy Barnes was placed on two years' probation after pleading guilty to misdemeanor driving while intoxicated in the Circuit Court of Benton County. In March 2020, Barnes was again charged with driving while intoxicated, this time in the Circuit Court of Camden County.

On July 30, 2020, the Benton County court made a docket entry in which the court noted the Camden County charge; suspended Barnes' probation; and set the matter for a hearing on August 18, 2020 (after Barnes' two-year probationary period had expired).

Barnes moved to be discharged from probation, contending that the circuit court had lost authority to revoke her probation when her probation expired on August 7, 2020. The circuit court denied Barnes' motion. She then filed a petition for writ of prohibition in this Court. This Court issued a preliminary writ, and set the matter for full briefing and argument.

PRELIMINARY WRIT OF PROHIBITION MADE PERMANENT.

Writ Division holds:

A circuit court's authority to revoke probation generally concludes then the probation period expires. Under § 559.036.8, RSMo, however, a court's authority to revoke probation may be extended if, prior to the expiration of the probationary period, that court (1) affirmatively manifests its intention to hold a revocation hearing, and (2) makes "every reasonable effort" to conduct the hearing before the term expires.

In this case, the circuit court did not affirmatively manifest its intention to hold a probation revocation hearing prior to August 7, 2020. Suspending Barnes' probation, and setting the matter for a review hearing, are not sufficient to manifest an intention to hold a revocation hearing. Additional actions, such as the filing of a revocation motion, issuance of a capias warrant, or the scheduling of a revocation hearing, are required to manifest an intent to hold a revocation hearing. None of those events occurred in this case.

Opinion by: Alok Ahuja, Judge May 4, 2021

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