OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

KARLA L. ALLSBERRY,	)	No. ED109468
	)	ED109481 (consolidated with above)
Respondent/Cross-Appellant,	)	
	)	Appeal from the Circuit Court
	)	of Lincoln County
vs.	)	Cause No. 20L6-CC00031
	)	
PATRICK S. FLYNN,	)	
in his individual capacity,	)	Honorable Richard G. Callahan
	)	
Respondent.	)	Filed: August 10, 2021

The Honorable Patrick S. Flynn appeals the judgment declaring that he did not have authority, as the presiding judge of the 45th Judicial Circuit, to suspend Karla Allsberry, the elected circuit clerk of Lincoln County within the 45th Judicial Circuit. Allsberry cross-appeals the judgment denying her request for injunctive relief.

TRANSFERRED TO SUPREME COURT OF MISSOURI.

Division Three holds:

Judge Flynn's general administrative authority under § 478.240.2 does not empower him to indefinitely suspend an elected circuit clerk and bar her from exercising any of her elected duties because such suspension is a *de facto* removal. Elected circuit clerks can only be removed from office for the causes and in the manners provided by law, Mo. Const. art. VII, § 4, and the only two such causes and manners are via a misdemeanor in office or *quo warranto* proceeding. Indefinite suspension under § 478.240.2 is not a constitutional method of removing an elected circuit clerk from office. Therefore, we would affirm the declaratory judgment.

But we would reverse the trial court's judgment denying Allsberry injunctive relief on the ground that one circuit judge cannot enjoin another circuit judge. The trial court's authority in this case was no different than in any other case in which a plaintiff seeks a declaration of rights and injunctive relief against a defendant. Having declared that Judge Flynn could not indefinitely suspend Allsberry, the trial court had the power to enforce that declaration by way of a permanent mandatory injunction to undo Judge Flynn's wrong.

Because of the general interest in and importance of the questions in this case, we exercise our discretion to transfer this case to the Supreme Court pursuant to Rule 83.02 The resolution of issues relating to the authority of one independently-elected court official over another is an

important matter and of general interest throughout this State, particularly to the electorate and the judiciary.

Opinion by: Colleen Dolan, J.

Philip M. Hess, P. J., and Kurt S. Odenwald, J., concur.

Attorney for Appellant: Jesus Armando Osete

Attorney for Respondent/Cross-Appellant: David M. Durree

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.