Summary of SC98501, *Randall Graves v. Missouri Department of Corrections, the Division of Probation and Parole*

Appeal from the Cole County circuit court, Judge Daniel R. Green
Argued October 6, 2020; submitted July 20, 2021; opinion issued October 5, 2021

Attorneys: Graves was represented by Matthew G. Mueller of MGM Law LLC in St. Louis, (573) 823-3180. The division was represented by Emily A. Dodge of the attorney general's office in Jefferson City, (573) 751-3321.

Two organizations filed briefs as friends of the Court. The American Civil Liberties Union of Missouri was represented by Gillian R. Wilcox of the ACLU of Missouri Foundation in Kansas City, (816) 470-9933; and Anthony E. Rothert, Kayla M. DeLoach and Jessie Steffan of the ACLU foundation in St. Louis, (314) 652-3114. Arch City Defenders Inc. was represented by Corrigan L. Lewis, Katrina A. Hudson and Jacki J. Langum of Arch City Defenders in St. Louis, (855) 724-2489.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man appeals from a judgment dismissing, with prejudice, his lawsuit seeking a declaration as to whether his federal supplemental security income (SSI) is exempt under federal law from payment of monthly intervention fees for his state-supervised probation. In a 4-3 decision written by Judge W. Brent Powell, the Supreme Court of Missouri affirms in part and reverses in part the circuit court's judgment. The man failed to state a claim ripe for judicial review because it is speculative whether the state agency ever will seek payment of the monthly intervention fees or place the man in violation status for failing to pay the fees. The man, however, was entitled to have his claim dismissed without prejudice.

Judge Patricia Breckenridge dissents. She would hold the man alleged a ripe claim for declaratory judgment because his petition sought a declaration that the agency's imposition of an intervention fee as a condition of his probation violates federal law that prohibits his SSI from being subjected to other legal process.

Facts: In 2018, Randall Graves pleaded guilty to one count of receiving stolen property. The circuit court sentenced him to six years in prison, suspended execution of the sentence and placed him on supervised probation. As a condition of his probation, Graves was ordered to pay a monthly intervention fee, which the department of corrections set at $30 per month. In April 2019, the division of probation and parole sent Graves correspondence advising he had an overdue balance of $60 and failure to pay the monthly intervention fee "may place [him] in 'violation status.'" Graves' sole source of income is $771 per month in SSI he receives due to disability. In May 2019, he filed a petition in the circuit court seeking a judgment declaring that federal law prohibits the division from subjecting his SSI to other legal process. The division moved to dismiss the case. The circuit court sustained the motion, dismissing the case with prejudice (so it cannot be refiled). Graves appeals.

AFFIRMED IN PART AND REVERSED IN PART.

Court en banc holds: (1) Graves' petition failed to plead facts supporting a claim ripe for declaratory judgment. Despite the division's letter informing Graves of his overdue balance, it is purely speculative and hypothetical whether the division will place Graves in violation status or otherwise act to collect any overdue intervention fees. Because the division's future conduct and any alleged injury to Graves remain uncertain, the case does not present a judiciable controversy ripe for judicial review.

(2) The circuit court erred in dismissing Graves' petition with prejudice. Graves was entitled to dismissal of his petition without prejudice because his claims were not ripe for judicial review. Accordingly, this Court enters a judgment of dismissal without prejudice.

Dissenting opinion by Judge Breckenridge: The author would reverse the circuit court's judgment. She would hold Graves' petition, given its broadest intendment, states a claim for declaratory judgment because he seeks a declaration that the division's imposition of an intervention fee as a condition of his probation violates a federal law prohibiting his SSI from being subjected to other legal process. She would find the justiciable controversy relates to what the division already has done by imposing monthly intervention fees as a condition of Graves' probation, not what the division may do in the future.