MISSOURI COURT OF APPEALS
WESTERN DISTRICT

GARY AUSTIN

APPELLANT,

v.

MISSOURI STATE HIGHWAY PATROL, ET AL

RESPONDENTS.

DOCKET NUMBER WD84085

DATE: January 25, 2022

Appeal From:

Jackson County Circuit Court
The Honorable Kevin Duane Harrell, Judge

Appellate Judges:

Division Three: Lisa White Hardwick, Presiding Judge, Gary D. Witt, Judge and Edward R. Ardini, Jr., Judge

---

Attorneys:

David Andrew Kelly, Lee's Summit, MO, for appellant.

Dawn Joanna Diel, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

GARY AUSTIN, APPELLANT,
v.
MISSOURI STATE HIGHWAY PATROL, ET AL., RESPONDENTS.

WD84085 Jackson County

Before Division Three Judges: Lisa White Hardwick, Presiding Judge, Gary D. Witt, Judge, and Edward R. Ardini, Jr., Judge

Gary Austin ("Austin") appeals the judgment of the Circuit Court of Jackson County ("trial court"), denying his petition to be removed from the Missouri Sex Offender Registry. On appeal, Austin argues the trial court erred in denying his petition because: (1) the "prior offenses" of which Austin was convicted arose before the date he was required to register as a sex offender under the federal Sex Offender Registration and Notification Act ("SORNA") and thus are not a basis to deny his removal from the registry; and (2) Austin's failure to successfully complete probation was not a proper basis to deny his removal from the registry because it also occurred prior to his duty to register under SORNA.

AFFIRMED.

Division Three holds:

Missouri's Sex Offender Registration Act ("SORA"), sections 589.400 *et seq.*, RSMo, became effective on January 1, 1995. The act imposes registration and notification requirements of persons committing crimes listed in chapter 566 along with certain other crimes, and it restricts the conduct of such offenders with criminal penalties for violations of SORA's requirements and restrictions. Because Austin pled guilty in 1999 for events that occurred on July 30, 1998, SORA applied to him, and he did register as a sex offender pursuant to SORA beginning in 2001.

Section 589.401.11 prohibits the circuit court from ordering an offender removed from the sex offender registry if the offender has either committed other non-sexual felonies since he was first required to register or has failed to successfully complete a period of supervised release, probation, or parole since he was required to register. The trial court found that Austin was disqualified from removal from the registry under both provisions. Accordingly, the trial court properly denied his petition for removal from the registry notwithstanding that Austin's non-sexual felonies and his failure to successfully complete his probation occurred before he was required to register under the federal registration act (SORNA), which took effect for Missouri offenders in August of 2008.

Opinion by: Gary D. Witt, Judge January 25, 2022

****

This summary is UNOFFICIAL and should not be quoted or cited.