Summary of SC99063, *State of Missouri v. Gary Andrews, Jr.*
Appeal from the St. Louis City circuit court, Judge David C. Mason
Argued and submitted December 8, 2021; opinion issued March 15, 2022

Attorneys: The state was represented by Kristen S. Johnson of the attorney general's office in Jefferson City, (573) 751-3321. Andrews was represented by Abraham Patrick Copi of the public defender's office in St. Louis, (314) 340-7662.

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: The state appeals from a judgment dismissing one count of possession of a controlled substance on double jeopardy grounds. In a unanimous decision written by Judge Mary R. Russell, the Supreme Court of Missouri reverses the judgment and remands (sends back) the case. The double jeopardy clause of the federal constitution does not prohibit the state from prosecuting a criminal defendant for multiple offenses in a single prosecution.

Facts: In 2019, the state charged Gary Andrews in a single indictment with five counts, including one count of possession of a controlled substance and one count of unlawful use of a weapon by possessing a firearm while in possession of a controlled substance. Andrews moved to dismiss the possession charge, arguing charging him with both possession and unlawful use of a weapon while in possession of a controlled substance violated his right to be free from double jeopardy. During a hearing on his motion, Andrews pleaded guilty to all charges except possession of a controlled substance. The circuit court sentenced Andrews to four years in prison, suspended execution of sentence, and placed him on probation for three years. He then moved again to dismiss the possession charge. The circuit court sustained the motion, finding possession was a lesser-included offense of the unlawful use of a weapon while in possession of a controlled substance charge and a conviction on such charge would violate Andrews' rights against double jeopardy. The state appeals.

REVERSED AND REMANDED.

Court en banc holds: The state should not have been precluded from continuing to prosecute Andrews for the possession charge following his guilty plea to the offense of unlawful use of a weapon while in possession of a controlled substance. While the double jeopardy clause of the federal constitution prohibits multiple punishments for the same offense, it does not prohibit the state from prosecuting a criminal defendant for multiple offenses in a single prosecution. The circuit court, therefore, erred in dismissing the possession of a controlled substance count.