Summary of SC99626, *State ex rel. Mayela Barron v. The Honorable John D. Beger*
Proceeding originating in Howell County
Argued and submitted October 25, 2022; opinion issued December 6, 2022

Attorneys: Barron was represented by Eliot Michael Gusdorf of the attorney general's office in St. Louis, (573) 751-3321. Osborn was represented by Zane A. Privette and Bailey M. Privette of Privette Law Office in Willow Springs, (417) 469-3535; H. Lynn Henry and Nikki Kinder of Henry & Williams PC in West Plains, (417) 256-8133; Tim Dollar, Lauren Dollar and Jordan Dollar of Dollar, Burns, Becker & Herschewe in Kansas City, (816) 876-2600; and Jeff Bauer of Strong-Garner-Bauer PC in Springfield, (417) 855-2022.

Judge John P. Torbitzky – a judge on the Missouri Court of Appeals, Eastern District – sat in this case by special designation in place of Judge Patricia Breckenridge.

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 law enforcement officer seeks a permanent writ of prohibition ordering the circuit court to vacate its order overruling her motion for summary judgment (judgment on the court filings, without a trial) because she is entitled to official immunity. In a 7-0 per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri makes the preliminary writ of prohibition permanent. The law enforcement officer is entitled to immunity because her actions in pursuing the speeding vehicle were not ministerial in that there was room for variation in how she performed that task.

Facts: Trooper Mayela Barron was patrolling in Pomona when she was radioed about a white truck driving at excessive speeds in her direction. Barron began pursuing the truck. She determined that, because of the truck's increasing speed, the hilly terrain, the time of day, and upcoming service roads, she should close the distance between her patrol vehicle and the truck before engaging her vehicle's emergency lights and sirens. When Barron crested a hill near an intersection, Justin Osborn, in a different vehicle, pulled out into the intersection to make a lawful turn onto the roadway. Barron applied her brakes to slow down and attempted to swerve past Osborn's vehicle, but the two vehicles collided. Osborn sued Barron for negligence. Barron pleaded she was immune from liability under the official immunity doctrine and the public duty doctrine. Barron and Osborn both moved for summary judgment. The circuit court concluded Barron was not entitled to immunity and overruled her motion. She then sought a writ of prohibition. This Court entered a preliminary writ, which Barron asks the Court to make permanent.

PRELIMINARY WRIT MADE PERMANENT.

Court en banc holds: Barron is entitled to immunity. Official immunity protects public officials sued in their individual capacities from liability for alleged acts of negligence committed during the course of their official duties for the performance of discretionary acts. A narrow exception to the official immunity doctrine exists, however, when a public officer fails to perform a ministerial duty required of him or her by law. While Missouri case law has defined

emergencies as non-ministerial, it is not an element of official immunity that Barron was required to prove in this case. The decisions Barron made when attempting to overtake the truck could have been made in various different ways and were subject to Barron's discretion. Because there was room for variation in how she pursued the truck, that task – by definition – is not ministerial. Barron, therefore, established the official immunity doctrine applies.