MISSOURI COURT OF APPEALS
WESTERN DISTRICT

D.B., APPELLANT,
v.
MISSOURI STATE HIGHWAY PATROL CRIMINAL JUSTICE INFORMATION SERVICES, BUCHANAN COUNTY PROSECUTING ATTORNEY(S), CIRCUIT ATTORNEY(S), RESPONDENTS.

DOCKET NUMBER WD86542

DATE: JULY 9, 2024

Appeal From:

The Circuit Court of Buchanan County, Missouri
The Honorable Kate Holly Schaefer, Judge

Appellate Judges:

Special Division: W. Douglas Thomson, Presiding Judge, Alok Ahuja, Judge and Zel M. Fischer, Special Judge

---

Attorneys:

Bradley J. Bramell, for Appellant

Jennifer M. Addadi, for Respondent Missouri State Highway Patrol Criminal Justice Info, SVC

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

D.B., APPELLANT,
v.
MISSOURI STATE HIGHWAY PATROL CRIMINAL JUSTICE INFORMATION SERVICES, BUCHANAN COUNTY PROSECUTING ATTORNEY(S), CIRCUIT ATTORNEY(S), RESPONDENTS.

WD86542 Buchanan County

Before Special Division Judges: W. Douglas Thomson, Presiding Judge, Alok Ahuja, Judge and Zel M. Fischer, Special Judge

D.B. filed a petition in the Circuit Court of Buchanan County ("trial court"), seeking expungement of two felony convictions from 2004 pursuant to section 610.140, RSMo. The trial court granted D.B.'s petition in part, expunging one of his two convictions. The court held that it could not expunge both convictions, because the two felonies were not "committed as part of the same course of criminal conduct" within the meaning of section 610.140.1. D.B. appeals, raising four Points. In his first Point, D.B. argues that the Highway Patrol's Criminal Records Repository lacked standing to contest his petition for expungement. In his second Point, D.B. argues that the trial court improperly considered whether D.B.'s expungement petition violated the lifetime limit on expungements found in section 610.140.12. According to D.B., because the Prosecutor's Office did not timely object to his petition, the application of the lifetime limit was no longer in issue. In his third Point, D.B. argues the trial court erred in sustaining the Buchanan County Prosecuting Attorneys Office's Motion for Leave to Answer Out of Time as a matter of right. In his fourth and final Point, D.B. argues that the trial court erred in its application of the law when it held that his two offenses were not committed as part of "the same course of criminal conduct."

AFFIRMED.

Special Division Majority Opinion holds:

Point I is denied because the General Assembly required that the Highway Patrol's criminal records repository be named as a defendant in an expungement petition brought under section 610.140, and that it be provided with notice of the hearing on the petition. Additionally, this Court has recognized that the Highway Patrol's criminal records repository is an "aggrieved" party with standing to appeal from decisions expunging records of arrest or conviction. In light of our holding in Point I, Point III is denied as moot. The Highway Patrol and the Prosecutor presented identical arguments; even if the

Prosecutor's Office failed to timely make those arguments, those same arguments were timely raised by the Highway Patrol.

Point II is denied because, in deciding whether D.B. was entitled to expungement of his convictions, the trial court was required to consider *all* of the statutory eligibility criteria, including the lifetime limit on expungements contained in section 610.140.12.

Point IV is denied because multiple offenses must have occurred in the "same course of criminal conduct," as the plain meaning of section 610.140.1 entails, in order for more than one offense to be expunged.

Dissenting Opinion by J. Ahuja holds:

Judge Ahuja dissents. In his view, "the same course of criminal conduct" must be liberally construed to encompass a pattern of criminal offenses committed in a similar manner, even though the offenses in the series are separated in time and can be separately prosecuted. Under that standard, D.B.'s two convictions for manufacturing methamphetamine are plainly part of a single "course of conduct," because the offenses were committed close in time, and were committed in the same way: the offenses had precisely the same objective, and occurred at the same location, using the same processes, chemical suppliers, and distribution network.

Majority Opinion by: W. Douglas Thomson, Judge
Zel M. Fischer, Special Judge, concurs
Dissenting Opinion by: Alok Ahuja, Judge Date: July 9, 2024

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